

IN SENATE OF THE UNITED STATES.

MARCH 14, 1848.

Submitted, and ordered to be printed:

Mr. CLAYTON made the following

REPORT:

[To accompany bill S. 68.]

*The Committee on Finance, to whom was referred bill No. 68, authorizing the Secretary of War to surrender certain bonds of the State of Indiana, (held by the United States,) to the "agent of State, for said State of Indiana," submitted the following report:*

This bill directs the Secretary of War to surrender to the agent of State, of the State of Indiana, any and all bonds of said State, held by the United States in trust or otherwise, and to receive in exchange for the same the new stocks proposed to be issued under the act of said State, entitled "An act to provide for the completion of the Wabash and Erie canal to Evansville," approved January 19, 1846, and an act supplementary thereto, approved January 27, 1847. The committee hereto annex a statement of these bonds, as furnished from the Comptroller's office, (marked A,) from which it appears that the amount of principal and interest due on the bonds, held by the Secretary of the Treasury and the Secretary of War, issued by the State of Indiana, was, on the 31st of December last, the aggregate sum of three hundred and twenty-six thousand five hundred and forty-nine dollars and fifty-three cents.

Of this amount the Secretary of the Treasury holds bonds in trust on account of the Chickasaw Indians, the principal of which is two hundred and two thousand dollars, and the Secretary of War holds other bonds in trust "on account of certain Indian tribes," the principal of which amounts to the sum of seventy thousand dollars.

A portion of these bonds, called "the State bank loan, redeemable in 1856," is said to be secured by the State bank fund of the State of Indiana. This portion amounts to sixty-one thousand dollars, and on this sum the interest has been regularly paid. On nearly all the residue of these Indiana bonds, no interest has been paid since the 1st of July, 1842. All this will more fully appear by reference to the statement of the Comptroller.

The committee also submit with their report full copies of the two acts of Indiana, referred to in the bill, marked C, with which

they have been furnished by James Collens, State agent, appended to which is a full statement of the Indiana State debt.

From this it appears that the debt of the State of Indiana, principal and interest, exclusive of original bank bonds, is stated to be \$15,271,250. Besides this amount, there are \$1,390,000 of original bank bonds, on which the interest is regularly paid by the bank. The statement thus furnished by the State agent, shows that the debt of the State of Indiana, exclusive of the bank bonds, is composed of the following items:

### 1. *Public Debt.*

State bonds, outstanding principal.....	\$11,068,000
Interest due on same, from 1st of January, 1841, to 1st of January, 1847 .....	3,326,940
	<hr/>
	14,394,940

### 2. *Domestic Debt.*

Six per cent. treasury notes, outstanding principal.....	\$342,845
Interest due on the same.....	110,000
Five per cent. treasury notes outstanding..	349,965
Interest due on the same .....	73,500
	<hr/>
	876,310
	<hr/>
	\$15,271,250

It appears by the first section of the act of the State of Indiana, passed on the 19th of January, 1846, that no provision was intended to be made for the surrender of the "bonds issued under the original bank charter," and therefore these bonds are expressly excepted from the operation of the act.

On these bonds, on which the interest has been regularly paid, no sacrifice has been required from other creditors, and therefore, as the Secretary of the Treasury holds bonds of that description, to the amount of sixty-one thousand dollars, in trust for the Chickasaw Indians, the committee submit to the Senate that it is proper to amend the bill which directs the surrender of "*any* and *all* bonds of said State of Indiana, held by the United States in trust or otherwise," by excepting the bank bonds from the operation of the proposed law.

Deducting this sum of sixty-one thousand dollars, there will still remain two hundred and sixty-five thousand, five hundred and forty-nine dollars and fifty-three cents, the principal and interest on the 31st of December last, of Indiana bonds (other than her bank bonds) held by the United States in trust for the Indians, to be exchanged for the stocks provided for by the laws of Indiana, referred to in the bill. The public debt of the State is, by the terms of these acts adjusting it, to be equally divided between the State and the Wabash and Erie canal, and stood thus on the 1st of January, 1847, which will appear from the statement to which we have before referred.

1. State stock, $\frac{1}{2}$ principal, bearing interest 4 per cent. till 1853, and thereafter 5 per cent, till redeemed...	\$1,534,000
Half back interest to 1st of January, 1847.....	1,663,470
Deficit 1 per cent. interest, up to January, 1853 (say)	322,040

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Estimated public debt, 1st of January, 1853..... \$7,519,510

The principal bearing interest at 5 per cent., and the interest  $2\frac{1}{2}$  per cent. from that date. Amount of annual interest to be paid by taxation, from 1847 to 1853, say \$231,360; and after that say \$326,337.

2. Wabash and Erie canal stock, issued for $\frac{1}{2}$ principal, 1st of January, 1847, bearing interest of 5 per cent. from 1st of January, 1847.....	\$5,534,000
Half back interest to 1st of January, 1847.....	1,663,470

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1st of January, 1847, Wabash and Erie canal stock \$7,197,470

The revenues of the canal, after paying repairs and 6 per cent. interest on advances, are to be applied to the completion of the canal to Evansville, on the Ohio river. All back interest, and all arrears of interest on canal stock, to be funded on the 1st of January, 1853, at 5 per cent.

The committee have no hesitation in recommending the passage of the bill with the amendment they have proposed. On the 30th of May, 1846, a committee, appointed by a large body of the holders of Indiana bonds in Europe, composed of N. M. Rothschild & Sons, Palmer, Mackillop, Dent & Co., Baring, Brothers & Co., Frederick Huth & Co., Morrison, Sons & Co., Magniac, Jardine & Co., by certain resolutions then adopted by them, "concurred in the principles laid down in the acts of the legislature of Indiana, for the adjustment of the public debt of that State, by the payment of one moiety, of the principal and interest by taxation, and the other moiety by the property and tolls of the canal, from the State line adjoining Ohio, to Evansville on the Ohio river; such property to be assigned to three trustees, and the State to be freed from responsibility on that portion of the debt and interest so to be secured." They also appointed Mr. C. Butler to apply to the bondholders of Indiana, resident in the United States, for their co-operation, carrying out the arrangement upon these principles.

Accompanying this report is a copy of Mr. Butler's circular to the holders of Indiana bonds in the United States, relative to the Indiana debt, dated New York, July 14, 1846, marked B, from which we think it apparent that the proposed arrangement was the best that could have been adopted under the circumstances, for the benefit of the creditors. By that arrangement, more than nine millions of the State debt has already been cancelled. Scientific men have given the opinion, that when the canal shall be completed to Evansville, on the Ohio river, the revenues will be ample to meet the interest, and ultimately to redeem the principal of that half of the existing debt which is to be chargeable upon it. On the State half of that debt, interest is now regularly paid.

The Committee, in concluding this report, deem it proper to add, that in recommending this arrangement with one of the States of the Union, making a noble effort to save herself from the stain of repudiation, they are actuated by a still higher, and in their view, a more important consideration, than the mere security of this portion of the public money. Other creditors may be expected to refuse their assent to the just terms proposed by Indiana, (terms the very best she is able to offer to her creditors,) if this government should refuse to co-operate with them in the arrangement of her debt; and the loss of that arrangement, deeply affecting, as it would, the public credit of one of the sovereign States of this Union, would be certainly felt as an injury to all the rest. Your committee therefore recommend the passage of the bill, with the following amendments, viz:

After the words "Secretary of War," insert "and Secretary of the Treasury."

After the word "otherwise," line seventh, insert "except the bonds issued under the original bank charter, called bank bonds, redeemable in 1856, amounting to sixty-one thousand dollars, held in trust by the Secretary of the Treasury for the Chickasaw Indians."

#### A.

*Statement showing the amount of bonds held in trust by the Secretary of the Treasury, on account of the Chickasaw Indians, issued by the State of Indiana, with the amount of interest due thereon.*

Amount on Indiana bonds, State bank loan, redeemable in 1866, (bank fund pays this as it falls due,) .....	*\$61,000	
Amount of Indiana bonds, Indianapolis railroad, redeemable in 1857.....	141,000	
To interest on \$141,000 from 1st July, 1842, to 31st December, 1842. ....	\$3,525 00	
By cash on account of the same..	3,400 47	
Leaving a balance due, and unpaid, of.....	124 53	
		\$124 53
To interest on \$141,000 from 1st January, 1843, to 1st December, 1847, 5 years.....		35,250 00
	202,000	35,374 53

\* The interest on the bonds redeemable in 1856 has been regularly paid.



*Statement showing the amount of bonds held in trust by the Secretary of War, on account of certain Indian tribes, issued by the State of Indiana, with the amount of interest due thereon.*

Amount of Indiana bonds, bearing interest at the rate of 5 per cent.....	\$68,000 00	
Interest on the same from 1st July, 1842, to 31st December, 1847, 5½ years.....		\$18,700 00
Amount of Indiana bonds, bearing interest at the rate of 5 per cent.....	2,000 00	
To interest on \$3,000 of bonds held on the 31st December, 1843, from 1st July, 1843, to 31st December, 1843, 6 months		75 00
To interest on \$2,000 of the above \$3,000 from 1st January, 1844, to 31st December, 1847, 4 years.....		400 00
	<hr/> 70,000 00	<hr/> 19,175 00

RECAPITULATION.

Bonds held in trust by the Secretary of the Secretary of the Treasury.....	\$202,000 00
Bonds held in trust by the Secretary of War.....	70,000 00
Total.....	<hr/> 272,000 00 <hr/>
Interest due upon bonds held by the Secretary of the Treasury.....	\$35,374 53
Interest due upon bonds held by the Secretary of War.....	19,175 00
	<hr/> 54,549 53 <hr/>

COMPTROLLER'S OFFICE, February, 1848.

R. COCKRAN.

B.

*Circular to the holders of Indiana bonds in the United States, relative to the Indiana debt.*

NEW YORK, July 14, 1846.

SIR: Having acted in behalf of a large body of the holders of Indiana bonds, in Europe, under the direction of a committee in London, whose names appear to the resolutions hereto appended, in a negotiation with the state authorities for the payment of the

bonds held by them, and a law having been passed by the legislature making provision for the payment of the public debt of the State, on the principles therein expressed, and which has received the assent of the parties in London to whom it has been submitted, at their request I address the holders of bonds in the United States, and invite their co-operation in the steps necessary to be taken to secure the benefit of the law in question.

The design of the law is to secure the payment of the entire amount of the principal and interest of the bonds of the State now outstanding. This result is provided for the extent of one half, by means of revenue to be derived from taxation, and for the other half, by means of the property and revenues of the Wabash and Erie canal, and which are to be vested in trust for that purpose. The law, as at first introduced by the committee of the legislature, provided for the payment of two and a half per cent. interest on the entire amount of principal of the bonds from taxation, and the other half out of the revenues of the canal, and the first section of the bill was framed with this view. In the subsequent action upon it by the legislature, it was so amended as to reserve to the State the right of dividing the *principal* of the debt, and transferring one half of it also to the canal. It seems to be conceded that the debt will be adjusted agreeably to this provision of the bill, and that the first issue of the new stock should be in conformity with it, in order to simplify the plan, and avoid the unnecessary expense and inconvenience which would be involved in rendering it necessary to make two separate issues of stock materially different in form. The London committee, in their resolutions, have recognised and assented to this principle of the bill, and I have therefore assumed it as the basis of the present exposition.

1847.

January 1.	Principal of debt.....	\$11,090,000
	Interest from 1st January, 1841, to 1st	
	January, 1847, six years, at 5 per cent. is	3,327,000

1st January, 1847. Total debt to be provided for, is \$14,417,000 as follows:

One half of it is to be provided for by taxation, viz:

One half the principal.....	\$5,545,000	
One half the interest.....	1,663,500	
		<u>\$7,208,500</u>

Separate certificates of stock will be issued for the principal and interest above stated.

Certificates given for the principal will bear interest at five per cent. per annum, from and after 1st January, 1847, of which four per cent. per annum will be paid, up to 1st January, 1853, at which last date the remaining one per cent. will be funded in certificates, then to be given for it, and thereafter full interest will be paid on the principal. Certificates given for the back interest and for the

*deficiency of interest*, will bear interest at the rate of two and a half per cent. from and after 1st January, 1853.

The other half is to be transferred to, and charged upon the Wabash and Erie canal, that is to say:

One half of principal .....	\$5,545,000
One half of interest .....	1,663,500
	<hr/>
	\$7,208,500
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Separate certificates of canal stock will be issued for the principal and interest above stated.

The certificates for principal, bearing five per cent. interest, from and after 1st January, 1847, and the certificates issued for the interest, and denominated "special stock," to draw interest at the rate of five per cent. from and after 1st January, 1853. Deficiencies of interest accruing between 1st January, 1847, and 1st January, 1853, (in consequence of the revenues of the canal not being sufficient to cover the full amount,) will be funded also at the latter date in stock, bearing five per cent. interest.

For the payment of this entire sum, (\$7,208,500,) principal and interest, the Wabash and Erie canal, together with its lands and revenues, are to be vested in three trustees, two of whom are to be appointed by the subscribers to the advance for completing the canal, and one by the State. The majority of the trustees govern.

The Wabash and Erie canal extends from Toledo, at the head of Lake Erie, in the State of Ohio, southwesterly, through the State of Indiana, to Evansville, on the Ohio river, and will be (when finished throughout its entire length) four hundred and fifty-eight and three-eighths miles in length, of which eighty-four miles of the eastern end are in the State of Ohio, and the residue, being three hundred and seventy-four and three-eighths miles, is in the State of Indiana, and the property of the State, to be vested as above.

It is *now finished and in operation* from Toledo to Covington, in Fountain county, Indiana, two hundred and fifty-eight miles, of which one hundred and seventy-four belong to the State of Indiana.

There remain two hundred miles to be finished from Covington to Evansville, on the Ohio river, on which part about \$1,200,000 have been expended by the State, and considerable portions of which are finished. It will cost, according to the estimates made by Jesse L. Williams, R. H. Fauntleroy and W. J. Ball, engineers of established reputation, the further sum of \$2,010,000, to finish the entire canal.

To cover this amount, the State is to transfer to the trustees certain lands and property which have been heretofore donated by Congress to the State for that purpose, that is to say, nine hundred and sixty-three thousand one hundred and twenty-six acres of land lying adjoining to, and in the neighborhood of the canal, and of which the largest portion has been selected with the utmost pains,

under the personal supervision of Governor Whitcomb. There is a balance due to the State on contracts for lands sold east of Tippecanoe (and for the payment of which the land itself is held) outstanding to the amount of \$244,711, bearing six per cent. interest, and on which the purchasers are entitled to a further credit, if they desire it, of five years from 1847, on paying the interest *annually in advance*.

The value of the above property, viz., the lands and contracts, is carefully estimated, at this time, at \$2,408,998. The completion of the canal will give additional value to all the land remaining on hand; and it is necessary to *finish* the canal to make it fully available as a source of revenue.

There are two modes proposed to finish the canal. The first is by cash means alone. The second by a cash advance equal to one-third or one-half the estimated cost, using the revenues of the canal and the proceeds of the lands, or the lands themselves, for the balance. The latter mode is proposed and expected to be adopted.

It is not doubted that contracts for the work may be made, payable partly in cash and partly in land, at its fair appraised value. The money to be advanced as the work progresses, and the land to be conveyed to the contractors when the work is finished. An experienced and responsible contractor proposes to take the contract for the completion of the entire canal from Covington to Evansville, within the four years limited by the act, at the estimated cost, with a cash advance of \$600,000, to be paid one-third the first, one-third the second, and one-sixth each of the last years; and to rely on the tolls of the canal and the proceeds of the lands for the entire balance.

The canal is required to be finished within four years from the time the act takes effect. The net revenues of the canal during the period of five years, (1847 to 1851 inclusive,) amount to \$933,700, as estimated by Messrs. Williams, Fauntleroy and Ball, which, added to the proposed cash advance, it is perceived will make about \$1,733,000, leaving about \$510,000, (after paying the interest annually on the cash advance, as provided for by the law, at six per cent.,) to be realized from the lands, and the debts now due for land, during the period of construction, in order to cover the whole cost.

For the cash advance, (including the revenues of the canal, annually applied as above on the subscription,) the party is entitled to receive a certificate of stock, bearing six per cent. interest, payable half-yearly, which interest is required to be first paid out of the revenues of the canal, and the principal of the same out of the proceeds of the lands and contracts; and if there should be any balance remaining after applying the lands and contracts, then it is to be paid out of the tolls and revenues, so that the subscribers to the advance, in effect, hold a lien upon the entire canal from the State line to the Ohio river, and all its resources, for the repayment of the same, and which will have cost \$6,642,991 93, excepting that after 1st January, 1853, the interest in full is to be first

paid out of the tolls of the canal lying east of Lafayette, on the stock issued for the original Wabash and Erie canal bonds.

In any mode to be adopted, it will be expected to ensure the payment of the interest on the certificates issued for the cash advances *regularly every six months* from the start, as the revenues of the canal will enable the trustees to effect the same.

The subscription required by the act for the completion of the canal (and which must be made and ten per cent. paid up before any part of the act can take effect) is nominally \$2,250,000, and it is required to be made by the 1st January, 1847. It is equal to about twenty per cent. upon the principal of the entire amount of bonds outstanding. The cash payment required on account of it, supposing that *all* should subscribe, would, on the principal above stated, be equal to, say six to eight per cent. upon the principal of the bonds. This amount is liable to be increased by the omission on the part of bondholders to subscribe. If the act takes effect by the filling up of the subscription, the bondholders will then receive from the State 2 per cent. per annum on the entire *principal* of their bonds, or 4 per cent. on one-half, to be paid by taxation, commencing the half-yearly payments on the 1st July, 1847, up to January, 1853, and thereafter two and a half per cent. on the whole, or 5 per cent. on half, besides the annual dividends from the revenues of the canal as above stated.

The revenues of the canal, by the terms of the law, (from and after the 1st January, 1847,) are to be applied—*first*, to the payment of the interest on the money advanced to finish it; *second*, to the payment (as far as they will go) of the interest falling due after January, 1847, upon the bonds held by the subscribers to the advance; *third*, to the payment in full of the back interest charged upon the canal, accruing prior to 1st January, 1847, and for which the parties hold “special stock,” with 5 per cent. interest thereon, as above specified, first paying the special stock held by the subscribers.

Transferable certificates of stock (similar in form to New York and Ohio stock) will be issued to holders, in place of the present bonds and coupons, which are required to be surrendered. Transfers are to be made in the city New York, at which place the principal and interest will be made payable. Interest in all cases is to be paid half yearly. It is perceived that the back interest and deficiencies of interest on the State's half of the principal, is to be funded in stock, bearing two and a half per cent. interest *from and after 1st January, 1853*.

The reduced rate at which this portion of the arrears of interest is to be funded, was found to be indispensable; in order to bring the amount of interest to be paid annually on the public debt, from and after January, 1853, within the ability and resources of the State. To provide for the liabilities of the State upon this basis, a revenue bill was simultaneously passed, fixing the *State tax* at two and a half mills on the dollar, (or twenty-five cents on the hundred dollars,) besides a poll tax of seventy-five cents. The mill tax is calculated to operate upon a fair and actual valuation of the entire



property of the state, real and personal, and the entire proceeds will be required, together with the proceeds of the poll tax, to enable the State to meet its obligations according to the provisions of the bill, as above set forth. The State expenses are restricted, for a period of fifteen years, (up to 1860 inclusive,) to a very small annual sum.

The tax required to provide for the first semi-annual payment (1st July, 1847) is now being assessed, and will be collected the ensuing fall and winter. If from any cause there should be a deficiency in the current revenues of the State, whereby they should at any time be unable to meet the interest (4 per cent.) between January, 1847, and January, 1853, such deficiency is provided to be paid at the latter date, in cash, with 6 per cent. interest added, from the time it should have been paid. Such contingency, it is believed, could only happen from one of two causes, viz: *first*, from an unexpected and unequal reduction in the assessed value of property in some counties of the State, and which might require legislative action to correct it; or *second*, from the unexpected payment, in any one year, of a larger portion of the revenue in State scrip now outstanding, than is estimated by the Auditor of State, in which event the deficiency would fall upon and be made up by the revenues of the succeeding years.

The amount of State scrip outstanding, and receivable on the face of it for taxes, and for which no other provision is made or can be made for its payment, is \$638,435, which is expected to be absorbed entirely out of State revenues, between 1847 and 1853, and allowance for which had to be made, and therefore the State could only provide during that period for the payment of 4 per cent. interest on the one-half, as above.

It is proper to add, that if the subscription be not made by the 1st January, 1847, and 10 per cent. paid into the hands of the trustees, the law will expire, and the bondholders will be left as if it had not been passed, with the exception of the effect to be produced by the rejection of the measure, which it is presumed the American bondholders will fully understand. I cannot urge upon you too strongly the importance of aiding to fill up the subscription, and thereby encourage and strengthen the State in her efforts to redeem her credit. If the plan be adopted, it is confidently believed that the entire amount of principal and interest of the bonds will be abundantly secured and ultimately paid.

I append hereto several tables illustrating the operation of the law, *if carried into effect*.

Expecting to be absent from the country until about the first of October next, the subscription will be opened under the direction of Messrs. Winslow & Perkins, at their banking-house, No. 40 Wall street, and application may be made to them, or to James G. King, Esq., at the office of Prime, Ward & King, for any further information which any party may wish to obtain on the subject. Communications addressed to me, at my office, will also receive attention.

CHARLES BUTLER,  
No. 20 Nassau street, New York.

*Resolutions of the London Committee.*

1. That under the circumstances stated in the report of Mr. Charles Butler, confirmed by a letter from his excellency James Whitcomb, dated 5th February last, addressed to Mr. Palmer, it is the opinion of the undersigned that it will be for the interest of the bondholders of the State of Indiana to concur in the principle laid down in the act of the legislature, passed at Indianapolis, on the 19th January last, for the adjustment of the public debt of that State, by the payment of one moiety of the principal and interest by taxation, and the other moiety by the property and tolls of the canal, from the State line adjoining Ohio, to Evansville on the Ohio river, such property to be assigned to *three* trustees, and the State to be freed from responsibility on that portion of the debt and interest so to be secured.

2. That Mr. C. Butler be requested to apply to the bondholders of the State of Indiana, resident in the United States, for their co-operation with the bondholders in Europe, in carrying out the arrangement upon the principle stated in the foregoing resolution.

N. M. ROTHSCHILD & SONS,  
PALMER, MACKILLOP, DENT & CO.  
BARING BROTHERS & CO.  
FRED'K HUTH & CO.  
MORRISON, SONS & CO.  
MAGNIAC, JARDINE & CO.

LONDON, 30th May, 1846.

## TABLES.

## No. 1.

Net revenues of the canal, as estimated by Jesse L. Williams, R. H. Fauntleroy, and W. J. Ball, engineers, provided it is finished.

1847.....	\$96,400	1855.....	\$388,600
1848.....	130,500	1856.....	395,600
1849.....	188,400	1857.....	422,600
1850.....	222,200	1858.....	450,000
1851.....	286,200	1859.....	475,000
1852.....	315,000	1860.....	498,000
1853.....	344,000	1861.....	519,000
1854.....	223,000*	1868.....	600,000

\* In consequence of re-building some structures this year.

## No. 2.

Interest from taxation, to be paid semi-annually, from and after 1st January, 1847.

1847....4	per cent.....	\$221,800
1848....4	" .....	221,800
1849....4	" .....	221,800
1850....4	" .....	221,800
1851....4	" .....	221,800
1852....4	" .....	251,800
1853....5	" on principal, and $2\frac{1}{2}$ per cent. on interest.....	327,155
1854....5	" .....	327,155
1855....5	" .....	327,155

The interest money to be paid by taxation, annually, will cover the cash advance to be paid by subscribers. This is on the assumption that all should come in.

## No. 3.

*Statement showing the cost of finishing the canal, and the means required—when and how derived and applied.*

Nominal amount of subscription required by the act to be made before the 1st day of January, 1847 ..... \$2,250,000  
 Estimated cost of finishing the canal..... 2,010,000

Cash advance to be paid by subscribers..... \$800,000

viz:

1846-'7. Cash 10 per cent., required by the law to be paid by the 1st January, 1847, on the nominal subscription..... \$225,000  
 1848. Cash advance..... 175,000  
 1849. Cash advance..... 200,000  
 1850. Cash advance..... 200,000

800,000

The net revenues of the canal, from year to year, for 1847, '48, '49, '50, and '51, to be applied on the subscription, and which are estimated at, say..... 700,000

The balance to be paid out of the proceeds of the sales of lands, and contracts, and the land itself, say..... 510,000

2,010,000

1847. Revenues of canal..... \$96,400  
 Less interest one year on new loan of \$225,000, six per cent..... 13,500

\$82,900

1848. Revenues of canal..... 130,500  
 Less interest one year on new loan of \$400,000  
 Less interest on the net proceeds of the canal, 1847..... 82,900

6 per cent. on 482,900, 28,974

101,526

1849. Revenues of canal..... 188,400  
 Less interest one year on new loan of 600,000  
 Less interest on net proceeds of canal, 1847 and '48..... 184,426

6 per cent. on 784,426, 47,065

141,335

1850. Revenues of canal.....	\$232,200	
Less interest one year on new loan.....	\$800,000	
Less interest on net proceeds of canal, 1847, '48, and '49.....	325,761	
	6 per cent. on 1,125,761,	67,545
		<u>\$164,655</u>
1851. Revenues of canal.....	286,200	
Less interest one year on new loan.....	800,000	
Less interest on net proceeds of canal, 1847, '48, '49, and '50.....	490,416	
	6 per cent. on 1,290,416,	77,424
		<u>208,776</u>
		<u>\$699,192</u>
Say.....		<u>700,000</u>

NOTE.—A further deduction should be made for the annual expenses of the trustees' office, which are to be paid out of the net revenues of the canal. It is believed that the lands may be made available of a larger amount in the canal work than is above estimated, and so as to leave the above net amount to be realized from the canal, and applied as above. The canal being finished, the proceeds of the lands and contracts remaining on hand are to be applied to the repayment of the principal of the cash outlay, say \$1,500,000.

#### No. 4.

*Table showing \$20,000 of bonds arranged under the bill.*

1st January, 1847, twenty bonds, \$1,000 each, surrendered.....	\$20,000
1st January, 1847, six years' back interest .....	<u>6,000</u>
Total, (amount due January, 1847,).....	<u>26,000</u>

Half to be paid by the State and half by the canal—

State half principal .....	\$10,000—	Certificate of State stock for this, with 4 per cent. interest up to 1st January, 1853, and thereafter 5 per cent. The deficiency of 1 per cent. to be funded on 1st January, 1853, at $2\frac{1}{2}$ per cent.
State half interest.....	3,000—	Certificate of State stock for this, with interest at $2\frac{1}{2}$ per cent., funded from and after 1st January, 1853.
Canal half principal .....	10,000—	Certificate of canal stock for this, with 5 per cent. interest from 1st January, 1847, payable out of canal revenues.
Canal half interest.....	3,000—	Certificate for this, called "special stock," with 5 per cent. interest from and after 1st January, 1853, payable out of canal revenues. If revenues fall short, then the deficiency is to be funded at 5 per cent. 1st January, 1853.

26,000

Holder will receive following income, from 1847 to 1853, per annum, viz:

1st. From taxation, 4 per cent. on \$10,000 .....	\$400 00
2d. From canal revenues on \$10,000, according to estimate, up to 1853, average per annum, say.....	<u>300 00</u>
From and after 1st January, 1853, viz:	
1st. From State on principal.....	\$10,000, 5 per cent..... 500 00
From State on arrears of interest .....	3,600, $2\frac{1}{2}$ per cent..... 90 00
2d. From canal on principal.....	10,000, 5 per cent..... 500 00
On back interest funded.....	3,000, 5 per cent..... 150 00
On deficiency of interest from '47 to '53, say..	1,200, 5 per cent..... 60 00
Say.....	<u>14,200</u> 710 00

For the ten years from and after 1853, inclusive, the canal revenues will average, as estimated, \$435,280 per annum, which will pay (over and above expenses) the 5 per cent. interest on the entire funded "canal debt," and leave a surplus towards extinguishing the "special stock."

*AN ACT to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie canal to Evansville.*

WHEREAS, honor and justice alike require that such equitable provision should be speedily made for the discharge of the pecuniary obligations of the State as shall be just and acceptable to its creditors, honorable to the people of Indiana, and, at the same time, within the ability of the State, without further involving the people in a general debt: AND WHEREAS, an arrangement, based upon a moderate system of taxation, and the completion of the Wabash and Erie canal to Evansville, it is believed will secure the objects aforesaid: AND WHEREAS, in order to insure so desirable a result, a large portion of our bondholders have manifested a willingness to aid in the completion of said canal, within the ensuing four years, to the Ohio river: AND WHEREAS, this proposition embraces, as a general arrangement, the payment, by taxation, of two and a half per cent. on the unprovided public debt of the State, and a reliance for the remaining two and a half per cent. on the lands, tolls and water rents, of said Wabash and Erie canal, (after paying expenses of construction and repair,) thereby greatly relieving the people of Indiana from burdensome taxation, and virtually discharging them from any liability for the said remaining interest, and looking alone to said canal, its tolls and other revenues, for half the interest on said entire public debt: AND WHEREAS, there is reason to believe that the plan embraced in the following provisions is entirely within the means of the State successfully to accomplish—that it will be acceptable to our creditors—honorable to the people represented by this general assembly, and will add to the wealth, prosperity and advancement of Indiana: therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That whenever the holder of any bond or bonds of this State (the bonds issued under the original bank charter excepted) shall choose to surrender the same up to the State, there shall be issued to such holder a new certificate of stock, which stock shall be redeemable at the pleasure of the State after twenty years, and which certificate shall specify and set forth the amount of principal of such bond or bonds so surrendered, and also distinct from the principal, the amount of interest which may appear to be due and accruing on such bond or bonds from 1st January, 1841, to 1st January, 1847, inclusive—computing the same at the rate of two and one half per cent. per annum, and on which the State will pay interest as follows, that is to say: On the principal specified in such certificate, the State shall and will pay interest at and after the rate of two per cent. per annum, from the first day of January, 1847, up to and inclusive of the first day of January, 1853, at which period the amount of interest specified in such certificate, and the one half of one per cent. per annum on said principal, from the first day of January, 1847, to the first day of January, 1853, shall be added to



said principal, and from that time forth the State shall and will pay interest on said principal and interest so added, at and after the rate of two and a half per cent. per annum, until the same shall be finally redeemed: *Provided, however,* That no bond shall be surrendered as aforesaid, or certificate issued therefor, that has not attached to it the coupons or interest warrants falling due on and after the first day of July, 1847: *And provided further,* That if the revenues of the State, up to the first day of January, 1853, to be derived from a property tax of twenty-five cents on every one hundred dollars of value, and a poll tax of seventy-five cents, shall not, by reason of the taxes being paid in six per cent. treasury notes, or from other causes, be sufficient, after defraying the current expenses of the government, to pay said rate of interest of two per cent., then and in that case the State shall only be required to pay, up to said first day of January, 1853, such rate of interest as the par funds in her treasury, derived from the taxation aforesaid, shall enable her to do; which shall be paid and distributed pro rata on the principal specified in such certificate of stock, and the deficit, with six per cent. interest per annum from the time it became due, the State shall and will make up and pay to the holders of such certificates, on or by the first day of January, 1853.

SEC. 2. Every certificate issued under this act shall be signed in blank, and numbered by the treasurer and auditor of the State, and shall be under the seal of the State; and at the time of its being delivered, shall be filled up and countersigned by the agent of State, whose duty it shall be to receive the bonds that may be surrendered, and issue the certificates of stock therefor—entering, at the same time, in suitable books, to be provided for that purpose, credits to the respective parties so surrendering bonds, for the principal and the interest specified in their respective certificates.

SEC. 3. Coupons or interest warrants falling due on and after July 1, 1841, and up to and including January 1, 1847, that may have been clipped or separated from the bonds to which they were attached, may also be surrendered, and in place of them a certificate of stock shall be issued—computing the interest and amount in the same manner as if such coupons were still attached to the bonds to which they were originally attached; but on the amount of such certificates no interest shall be paid until after January 1, 1853.

SEC. 4. The stock created pursuant to this act shall be transferable only in the city of New York, on books to be provided for that purpose by the State, by the holder or holders thereof, or his, her, or their duly constituted attorney, and in pursuance of such rules as may be adopted or may be prescribed by law. But no transfer shall at any time be permitted, except on the surrender and cancelment of the outstanding certificate.

SEC. 5. The interest on the stock hereby created shall be payable half yearly, at the city of New York, on the first days of January and July of each year, commencing on the first day of July, 1847. But if the interest for any half-year shall not be demanded before the expiration of thirteen months from the time the same became

due, it shall only be demandable afterwards at the treasury of the State; and for the payment of the interest and the redemption of the principal, as herein provided, the faith of the State is hereby solemnly pledged.

SEC. 6. For the purpose of saving and securing to themselves the remainder of the interest not herein before provided for, and the accruing interest not herein before provided for on the bonds surrendered as aforesaid, computing the same at and after the rate of two and one half per cent. per annum, it shall be lawful for said bondholders, or any of them, and they shall have the privilege of raising among themselves, by a pro rata subscription on the amount of bonds held by them respectively, at any time before the first day of January next, a sufficient sum, not less, however, than two millions, two hundred and fifty thousand dollars, to complete the Wabash and Erie canal to Evansville; and upon subscribing and promising to pay said amount, or so much thereof as may be needed, to trustees as hereinafter provided, and to be advanced in such sums as shall insure the completion of said canal to Evansville, and all necessary side cuts, feeders, feeder dams, reservoirs, and all side cuts, which may be hereafter particularly mentioned, within four years from the taking effect of this act; the canal lands, and tolls and revenues of said canal, shall be specifically set apart and conveyed to said trustees, in trust and security, to reimburse to said subscribers their said advances, and to pay the remaining interest on the said bonds, in the manner hereafter specified.

SEC. 7. As soon as said sum shall have been subscribed, it shall be lawful for said subscribers to elect two discreet persons, both of whom shall be citizens of the United States, and one of them shall be a citizen and resident of this State, as trustees: and, on notice thereof, accompanied with a copy of the subscription aforesaid, given to the governor, he shall appoint, if in the recess of the legislature, but if not, the two houses shall elect, by joint ballot, a third discreet person; and these three shall constitute a board, to be known by the style and description of the "board of trustees of the Wabash and Erie canal," who shall hold their offices for the term of three years, from the time of their said election or appointment, and until others are elected or appointed in their places: *Provided, however,* In the case of the trustee on the part of the State, if he shall have been appointed in the recess of the legislature, he shall only hold his office until his successor shall be elected as aforesaid, by the two houses of the next general assembly.

SEC. 8. So soon as said trustees shall have been elected or appointed as aforesaid, it shall be the duty of the governor, in the name and under the seal of the State, to execute and deliver to the said trustees, by the corporate name of the board of trustees of the Wabash and Erie canal, a deed or patent for the bed of the Wabash and Erie canal, and its extensions, finished and to be finished from the Ohio State line to Evansville, including its banks, margins, tow paths, side cuts, feeders, basins, right of way, locks, dams, water power and structures, and all materials provided or collected for its construction, and all the property, right, title and interest of

the State in and to the same, with all its appurtenances, and also all the lands and lots, (not sold or disposed of,) heretofore given, granted or donated, by the general government to the State, to aid in the construction of the said canal, or any part of it, or which may be hereafter acquired under, or by reason of, any existing grant, and all moneys due and to grow due, and remaining unpaid on account of any sale or sales heretofore made of any canal lands so donated, and all moneys due or to grow due, on account of any existing leases of any water power or other privilege on said canal, its side cuts, feeders, basins, or other appurtenances; said board of trustees to have, hold, possess and enjoy the same as fully and absolutely as the State can or could do; subject, nevertheless, to all existing rights and equities against the State on account of the same, or any part thereof, or liabilities of the State growing out of, or in relation thereto; and the same to be held by said trustees in trust and security for the uses and purposes following, that is to say:

*First.* The proceeds of said lands, (sold and unsold,) to be applied to the re-payment of the principal sum or sums that may have been advanced for the completion of said canal, its side cuts and feeders, and to the payment for work, labor and materials, to be done and furnished in and about the further prosecution and construction of said canal.

*Second.* The balance of the proceeds of said lands, (if any,) and the tolls and revenues of said canal, up to and including the first day of January, 1853, after defraying all needful and proper expenditures for repairs, attendance, and other causes, to be applied as follows, and in the following order, that is to say:

*First.* To pay in full the interest, at and after the rate of six per cent. per annum, on the sum or sums advanced for the completion of said canal to Evansville, or on so much of said sum or sums as may at any time remain unpaid; and the remainder, (if any,) to be applied to pay the balance of the principal, (if any,) of the sum or sums advanced for the completion of said canal.

*Second.* To pay in full to the subscribers making said advances or their assignees, interest at and after the rate of two and one-half per cent. per annum on the principal of the bonds they may have surrendered as aforesaid: and for the purpose of always knowing by whom any bond or bonds was surrendered, it shall be the duty of the agent of State, at the time of the surrender to him of any bond or bonds as aforesaid, to take a full account of the numbers thereof, and by whom the same were surrendered, which shall be furnished to said board of trustees, whenever the same shall be organized.

*Third.* To pay in full the interest at the rate of five per cent. per annum, on the special stock hereinafter named, (being stock created for that portion of arrearages and accruing interest, charged over against the canal, and for which no provision is made by the State,) and to pay the principal of said stock in full, as fast as the same can be done—first paying the interest and principal in full to such holders of said special stock, or their assignees, as shall have subscribed to the advance aforesaid.

*Fourth.* To pay in full to any other holder of any certificate of stock, by this act authorized to be issued, interest at and after the rate of two and one-half per cent. per annum on the amount of the principal thereof.

*Fifth.* To pay into the treasury of the State any balance which may remain on hand; which balance shall be applied by the State to the redemption and retirement of any of the outstanding stocks created by this act at the pleasure of the State: *Provided*, That if the State at any time hereafter becomes the holder of any of said stock, she may, at her election, deem it to be extinguished, or she may regard it as still outstanding, and be entitled to receive and draw upon it whatever of interest the tolls and revenue of said canal may pay upon it: *And provided further*, That if the tolls and revenues of said canal shall be insufficient for all the purposes aforesaid, then they shall be applied pro rata among the respective parties entitled thereto. First paying in full those first entitled, and so on *toties quoties*. From and after the first day of January, 1853, on account of the tolls and revenues of, and expenditures on, that portion of the canal between Lafayette (inclusive) and the Ohio State line, shall be kept separate and distinct from a like account of that portion between Lafayette (exclusive) and Evansville; and from and after that period the tolls and revenues derived from the first named portion, after defraying necessary expenses, repairs and outlays, shall first be applied to make the full interest of five per cent. per annum on the certificates of stock that may be issued for the bonds now outstanding, and known as the Wabash and Erie canal bonds; and, if sufficient for that purpose, the same shall be apportioned and paid pro rata on the amount of said certificates; and, if more than sufficient, the excess shall be added to the tolls and revenues derived from that portion between Lafayette (exclusive) and Evansville; and the sum thereof shall be paid as herein before in this section is provided. But, for the sufficiency of said lands, or tolls and revenues of said canal, to pay the advances aforesaid, or for the faithful application of the same by said trustees to said purposes, the faith of the State is and shall be in no wise pledged.

SEC. 9. Before the deed of trust herein provided to be given shall be delivered to said trustees, said subscribers to said advance shall pay over to said trustees, ten per centum of the amount of their said subscription; and thereafter from time to time, as further sums shall be needed for the prosecution of said canal. They shall, on the requisition of said trustees, pay over to them such sum or sums as they may call for, not exceeding, however, at any one time, five per cent. on the entire subscription. And if said subscribers, for the space of ninety days after any such call by the trustees, shall fail to pay the sum or sums so required, they shall forfeit all sums previously advanced, and also all the priority and preference which by this act is given them. And if any one or more of such subscribers shall fail to pay as specified in this section, it shall be lawful for any one or more of the other subscribers to said advance, or others, to pay the same; and such payment shall

give to the person or persons so paying, the like lien on said canal, its lands and revenues, for the amount so at any time paid, as the original subscribers might have if paid by them; and the trustees appointed under the provisions of this act shall pay to him, her or them, his, her or their proper share of the avails thereof. And if, by reason of the failure of said subscribers to make said advances, said trustees shall not be able to effect the completion of said canal within the period herein before mentioned, then and in that case the lands and property hereby granted to said trustees shall revert back to, and become again the property of the State. And no such failure, or any act or omission, or consequences of such failure, act or omission, on the part of the subscribers to said advance, shall at any time in any manner operate as a pledge of the faith of the State for any sum or sums hereby provided to be paid out of the revenues or lands of said canal; but the execution of the deed, as specified in section eight of this act, shall of itself operate as a release of the faith of the State from the payment of any part of such sum, and all other sums and interest, except the principal of the stock and the interest of two and one-half per cent. per annum, as provided in the first section of this act. For the amount of any such call, said trustees shall give to said subscribers the proper certificate under their corporate seal, and from that time only shall interest be computed on such advance. But for the principal of any such advance, or the interest on the same, the faith of the State is or shall be in no wise be pledged.

SEC. 10. The said board of trustees shall be a corporation, and shall have a corporate seal, and conveyances of any of the lands or lots granted to them as aforesaid, shall be in the name of "the Board of Trustees of the Wabash and Erie canal," and shall be under their corporate seal. Before entering on their duties, they shall take an oath or affirmation faithfully and impartially to discharge the same, and shall each also give bond to the State, with surety to be approved of by the governor, in the penal sum of \$25,000, for the proper discharge of their duties, and the faithful application of, and accounting for, all moneys which shall come to their hands by reason of said trust. It shall be the duty of said trustees to take charge of said canal, with all its appurtenances, and canal lands and property, and adopt and put in execution such plans and measures as they shall deem most expedient for the prosecution and completion of said canal, with its necessary side cuts and feeders, to Evansville, within the period herein before prescribed; and for this purpose they shall appoint and employ all needful officers and agents; and may require them to give security, and take an oath for the faithful performance of their duties; and either of said trustees shall be empowered to administer such oath. They shall make all contracts for work and labor on said canal, and for the materials to be furnished therefor. They shall call in on said subscription a sum sufficient to insure the completion of said canal within the period herein specified, and not less than six hundred thousand dollars (including said payment of ten per cent.) to be paid within two years from the time said trusts take affect. They



shall receive the moneys advanced by subscribers as aforesaid, for the completion of said canal, and shall disburse the same. They shall attend to the sales of the canal lands embraced in the aforesaid deed of trust, which they may in their discretion, (subject to the limitations hereinafter specified,) sell for ready money or on credit. They shall from time to time establish a tariff of tolls on said canal, receive all the tolls and revenues of said canal, and all other moneys arising under the trusts in this act created, and shall pay the same out in faithful execution of their said trust, keeping a record of all their doings and proceedings, which shall at all times be open to the inspection of the public authorities of this State. They shall keep a full, just, and true account of all moneys by them received, for or by reason of their said trust, and of their disbursements of the same, and shall annually report to the legislature the general condition of said canal and canal lands, and exhibit a full account of their receipts and disbursements, and shall do all the acts needful and proper in and about the sale of said canal lands, and the completion of said canal to Evansville, with necessary side cuts and feeders, particularly the side cuts and locks to the Wabash river, on sections 136 or 137, between Coal creek and Terre Haute, and on sections 33 or 34 and 46, as heretofore surveyed, between Coal creek and Lafayette, heretofore contemplated; and the side cut and basin, from station 578 to the bank of Eel river, opposite Point Commerce, as surveyed and reported by R. H. Fautleroy; and in and about the care and preservation of said canal, its side cuts, and feeders, after the same shall have been finished; and in and about the police, general government, and regulation of the same. The trustees shall have power from time to time to make, ordain, and establish such reasonable rules, by-laws and regulations, in relation to the collection of the tolls, transportation on said canal, the conduct of boats and rafts, and the general police of said canal, as are usual, or may be found necessary, and to enforce the observation of the same.

SEC. 11. The State hereby accepts the grant made by the general government, by the act entitled "An act to grant certain lands to the State of Indiana, the better to enable the said State to extend and complete the Wabash and Erie canal from Terre Haute to the Ohio river," approved March 3, 1845; and the lands selected by the State under said act shall be classified, under the direction and supervision of the governor, into three classes, taking into view quality and location; and the lands of the first class shall at all times be subject to sale, at a price not exceeding two dollars and fifty cents per acre; the lands of the second class shall at all times be subject to sale, at a price not exceeding two dollars per acre; and the lands of the third class shall at all times be subject to sale, at a price not exceeding one dollar and twenty-five cents per acre: *Provided, however,* That none of said lands, or any others, shall be sold at any time, at a less price than is provided in the acts of Congress donating the same. Saving and reserving to actual settlers and occupants, at the time of the passage of this act, of any of said lands granted to said trustees, the right to enter and

purchase the tract of land, not less than a quarter quarter section, nor more than a half quarter section, by him actually settled and occupied, (and which he shall continue to occupy at the time of said entry,) at the price per acre at which the same has been or may be valued or classified, irrespective of the improvements that may have been made by such settler; which right shall continue for the space of one year from the time when the deed of trust aforesaid shall be delivered to said trustees; and for which such settler shall only be required to pay, at the time of entry or purchase, one-fifth part of the purchase money in hand, and the residue he shall be required to pay in five equal annual instalments, with interest annually in advance on the whole balance of the purchase money remaining due and unpaid: *Provided, however,* when two or more persons, not entitled to any right of entry, shall apply at the same time to purchase the same tract, it shall be sold to that one of the applicants who shall bid and pay, or secure to be paid, (as the case may be,) the highest price.

SEC. 12. The trust hereby created shall cease and be determined, whenever the moneys advanced for the completion of said canal, with the interest and the special stock aforesaid, shall have been paid and refunded, and the State shall have taken up and retired one half of the stock issued by virtue of the first section of this act, and shall assume the payment of interest at the rate of five per centum per annum on the balance; which the State reserves the right of doing at its pleasure. Whenever any vacancy shall occur in the board of trustees, by death, resignation, or other cause, such vacancy shall be filled by the general assembly, or by the subscribers aforesaid, or their assignees, to whom belonged the election of the trustees whose seat shall become vacant, as the case may be.

SEC. 13. The tolls and revenues of said canal shall be applied to the repairs and expenses thereof, and the extension of the same, until after the first day of January, 1847; from which period, and up to and including the first day of January, 1853, said tolls and revenues, after defraying all needful expenditures and outlays for repairs, attendance, and other necessary things appertaining thereto, shall be applied, subject to the limitations contained in the eighth section of this act, to the payment of the two and a half per cent. interest unprovided for by the State, on the principal of the surrendered bonds, from the first day of January, 1847, to the first day of January, 1853; at which time the deficiencies (if any) of said tolls and revenues to discharge said interest, shall be added to the unprovided for two and a half per cent. on the principal of said bonds surrendered, from the first day of January, 1841, to the first day of January, 1847, and the sum thereof shall be converted into the special stock herein before referred to—the principal and interest of which shall be only payable out of the said canal lands, and tolls and revenues of said canal, as herein before provided; and for which proper certificates of stock shall be issued. But for the redemption of said principal, or the payment of said interest, the faith of the State is in no wise pledged.

SEC. 14. It shall be lawful for any other person than a bond-

holder to subscribe to the advance aforesaid; and such party shall have the right to register with the trustees a brief description of bonds or certificates of stock under such subscription, at any time within one year from the first day of November next; and further, any bondholder shall have the right, within two years from the first day of November next, to register with said trustees a description of his or her bond, or certificate of stock, and pay up to said trustees his pro rata share of said advance, together with interest from the time when the original subscription took effect; and which registry and payment shall place such party on the same footing as if he had originally subscribed thereto.

SEC. 15. The first board of trustees organized under this act, shall fix the time and place, and, by suitable rules and regulations, to be entered upon their records, prescribe the mode and manner of subsequently electing trustees on the part of the subscribers aforesaid, and those who may thereafter become subscribers, or their assignees; which rules and regulations shall at all times be subject to be altered or amended by said board.

SEC. 16. The interest and principal to be paid out of said canal lands, and tolls, and revenues of said canal, by said trustees, shall be payable half yearly, at the city of New York, on the first days of January and July of each year, commencing on the 1st day of July, 1847.

SEC. 17. The majority of said board of trustees shall have power and authority to act and decide in all cases; and the action or decision of the majority shall be binding on said board, and be deemed to be the action or decision of said board; excepting, however, that no sale or conveyance by said trustees of any land to be deeded by them as aforesaid, shall be valid or binding, unless concurred in, and the contract of sale or conveyance be signed by the trustee on the part of the State.

SEC. 18. The State reserves the right of altering or regulating the tariff of tolls that may at any time be established by said board of trustees, which, however, shall always be in accordance with the tariff of tolls on similar works.

SEC. 19. All expenses attending the selections of land under the act of Congress aforesaid, all expenses of surveying said canal remaining unpaid, all expenses of classifying said lands, and all other expenses connected with, or growing out of, the trust hereby created, shall be borne and paid by said trustees, out of the proceeds of said lands, or the tolls and revenues of said canal.

SEC. 20. This act shall be a public act, and shall be liberally construed in all courts of justice; and the State shall and will supply, by future legislation, all such defects, found to exist, as shall enable the trustees aforesaid to carry into full effect the fair and obvious intent of this act; and the governor is hereby required to give all necessary information to the parties interested, and to do any act or thing which may be necessary to carry this act into effect, and to facilitate any proceeding contemplated by this act.

SEC. 21. The troops of the United States, and their munitions of

war, shall, at all times, be transported on said canal, free of any charge whatever.

SEC. 22. Said trustees shall employ a chief engineer, of known and established character for experience and integrity, who shall be required to execute a bond to the State, to be approved of by the governor, in the penal sum of ten thousand dollars, for the faithful performance of his duties as engineer; and shall be subject to be removed by the governor during the vacation of the legislature, or by the general assembly, when in session, for misconduct, inefficiency, or neglect of duty. The said engineer, before entering on his duties, shall take an oath that he will faithfully and impartially perform the duties of his office, without respect of persons, and that he neither is, nor will be, interested, directly or indirectly, in any job, work, or contract, let, or to be let, on said canal, or connected therewith, during his continuance in office.

SEC. 23. Said trustees shall have the right to locate and construct such feeders, feeder dams, side cuts, and reservoirs, as may be necessary to supply said canal with water, and may take such timber, stone, or other materials, as may be necessary for the construction of said canal, by making to the proper owners reasonable compensation therefor, on the same terms, and in the same manner, as the superintendent of said canal is now authorized by law to do; and the word "*canal*," wherever used in this act, shall be construed to mean and include all its feeders, feeder dams, side cuts and reservoirs.

SEC. 24. Every person who shall wilfully and maliciously injure or destroy any lock, culvert or embankment of said canal, or shall wilfully or maliciously make any aperture or breach in any embankment of said canal, with intent to injure or destroy the same, shall, on conviction, be punished by imprisonment in the State prison at hard labor, not more than five years, or by fine not exceeding five hundred dollars, and imprisonment in the county jail not more than two years; and shall be, moreover, liable to said trustees for the damages occasioned thereby—which damages, when recovered, shall be considered as a part of the revenues of said canal, and applied accordingly.

SEC. 25. The time of final payment on all sales of Wabash and Erie canal lands heretofore made, shall, upon the request of the holder of any certificate of purchase, be extended for the term of five years from and after the term when the same shall fall due: *Provided, however*, that the interest shall be paid annually in advance, as now required by law.

SEC. 26. The State may at any time file her bill in chancery in the Marion or any other circuit court in this State, against said trustees, to enjoin them from any violation of said trust, and also to compel them to execute the same.

SEC. 27. Should either of the said trustees, or any officer or agent appointed by them, embezzle or fraudulently convert to his own use, or secrete, with intent so to convert to his own use, any of the funds, choses in action, securities or effects which may come into his hands or possession, under or by virtue of the trusts created by



this act, the trustee, officer or agent so offending, shall be deemed to have committed the crime of grand larceny; and, upon conviction thereof, shall suffer the punishment prescribed for that offence in the fifteenth section of article first of chapter fifty-three of the Revised Statutes of 1843.

SEC. 28. The capacity of that portion of said canal yet to be finished, shall be the same as established and provided in the original and late surveys, and the said trustees shall cause to be constructed and kept in repair, on the entire line of said canal, suitable bridges over all State and county roads crossing the same, in the same manner as is now required on the line of said canal east of Tippecanoe.

SEC. 29. Said canal, finished and to be finished, shall be deemed and taken to be a public highway, and shall be free to all persons whomsoever, to pass and re-pass with their own boats, or other water craft, and with their own produce, goods and chattels, wares and merchandise; such persons conforming to such uniform rules and regulations, and paying such uniform tolls, as may be established and required.

SEC. 30. Said trustees shall establish at least one land-office for the sale of said canal lands, at some convenient point in this State, for the transaction of all business connected with said trust.

SEC. 31. It shall be the duty of said trustees to return to the auditor of State, on or before the first day of November in each year, a list of all lands sold by virtue of the trust.

SEC. 32. It shall be optional with the State, at any time hereafter, to call in and require a surrender of the outstanding stock issued under the first section of this act, by giving to the holders of such stock a new certificate for the one half of the principal thereof, to bear interest at and after the rate of five per centum per annum, and which principal and interest shall be payable and redeemable by the State, out of the revenues thereof, the principal to be payable at the pleasure of the State, and by giving to such holder another certificate for the other half of the principle of such stock, to bear a like interest of five per centum per annum, and to be paid and redeemed, and only paid and redeemed out of the canal lands, and the tolls and revenues of the said canals as aforesaid, as provided in the eighth section of this act; and from and after the time that the State shall call in said stock, issued under the first section of this act, and shall issue new certificates as aforesaid, the State, its faith and revenues shall be only pledged and responsible for the payment of one half of said principal and interest, at the rate of five per centum per annum thereon; for the other half of said principal and interest, the holders of said certificates shall look solely and exclusively to said canal lands, and the tolls and revenues of said canal, as provided in the eighth section aforesaid of this act: *Provided, however,* that the State shall have the option of redeeming said canal certificates out of the revenues of said State, in the same manner as if this section were not adopted: *And provided further,* that the excess of the revenues of the said canal land, and tolls and revenues of said canal, after paying said interest of said five per centum



per annum on said canal stock, (if any there be,) shall be applied to the redemption and absolute retirement of said canal stocks.

SEC. 33. This act shall take effect and be in force as soon as the subscription mentioned in section six shall be made, and ten per centum paid thereon to the trustees elected, as provided in section seven of this act, and not before: *Provided*, that until there is surrendered and cancelled, bonds of the State, to the amount of one-half of all the bonds outstanding, (except bank bonds,) it shall not be lawful for the governor to convey by deed, the Wabash and Erie canal, lands, tolls, &c., as provided in the eighth section of this act: *Provided further*, that the acceptance, as provided in the eleventh section of this act, of a grant of land made by the general government, by their act, to grant certain lands to the State of Indiana, the better to enable said State to extend and complete the Wabash and Erie canal from Terre Haute to the Ohio river, shall not be construed to make it obligatory on the State, at any time hereafter, to complete said canal out of its revenues derived from taxation.

SEC. 34. That nothing in this act shall be so construed, as to allow the trustees, proposed to be appointed or elected, in this act, to erect any dam, bridge, or any other structure, in the construction of the extension of the Wabash and Erie canal, so as in any manner to impede the navigation of the east fork of White river in its present state, or as it may be hereafter improved by the construction of dams for slack water navigation, as the right to do has been secured to a company, chartered by the present legislature in an act, entitled, "An act for the improvement of White river."

SEC. 35. The State reserves the right of fixing, by law, the salaries to be allowed the trustees mentioned in the seventh section of this act.

JOHN S. SIMONSON,

*Speaker of the House of Representatives.*

J. G. READ,

*President of the Senate.*

Approved, January 19, 1846.

JAS. WHITCOMB.

I, John H. Thompson, Secretary of State, do hereby certify, that the foregoing is a true and complete copy of the original enrolment of an act, entitled, "An act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie canal to Evansville," now on file in this office.

In testimony whereof, I have hereunto set my hand, and [SEAL.] affixed the seal of the State, at Indianapolis, this 10th day of January, 1846.

J. H. THOMPSON,

*Secretary of State.*

*AN ACT supplementary to an "Act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie canal to Evansville." Approved, January 19, 1846.*

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, and it is hereby declared, in virtue and exercise of the option reserved to the State by the 32d section of the said act, that the outstanding bonds of the State shall be surrendered by the holders thereof, and a new issue made in exchange therefor, of two certificates, to be respectively signed and sealed, and otherwise verified by or on behalf of the State, as provided in the second section of the said act. Each such certificate to be for an equal moiety of the principal money secured by the bond or bonds for which the same shall be exchanged, and to bear interest at and after the rate of five per centum per annum, as provided by the thirty-second section of said act; such interest to be computed from the first day of January, 1847; that one of such certificates, with interest thereon, as aforesaid, shall be paid by the State, out of the revenues thereof, as provided in the said thirty-second section of the said act, and shall be redeemable at the pleasure of the State, after twenty years, as provided in the first section of the same act; and the other of such certificates, with interest thereon as aforesaid, shall be paid out of the canal lands, and the tolls and revenues of the said canal, as also provided by the thirty-second section of the said act; and that such certificates, in the form mentioned in the schedule to this act, shall be issuable as provided in the second section of said act, as modified by this act.*

SEC. 2. That certificates for arrears of interest, in the form mentioned in the schedule to this act, computed from the first day of January, 1841, to the first day of January, 1847, on the respective moieties of the outstanding debt of the State herein before mentioned or referred to, shall be issued at the same time above in this act mentioned, and shall constitute a special stock; that the amount of such of said certificates for interest as shall be chargeable on taxation, as herein before mentioned, shall be funded as of the first of January, 1853, and shall bear interest from that day, but not before, at and after the rate of two and half per cent. per annum, payable semi-annually, on the first day of July and the first day of January in every year, and the first half yearly payment of such interest shall become due and be paid on the first day of July, 1853. That the amount of such of the said certificates for interest as shall be chargeable on the canal lands, and the tolls and revenues of the said canal, shall likewise be funded as on and from the said first day of January, 1853, and shall bear interest as on and from that day, but not before, at and after the rate of five per cent. per annum, which interest shall also be paid semi-annually, on the first day of July and the first day of January in every year, and the first half yearly payment thereof shall become due and be paid on the first day of July, 1853, and new certificates, bearing interest after the rate, and payable at the times lastly mentioned, shall be issued and delivered out by the said trustees, to the parties respectively

entitled thereto, when the certificates for the principal shall be issued and delivered to such parties, as specified in the first section of this act.

SEC. 3. That the amount of interest to accrue from the first of January, 1847, to the first of January, 1853, inclusive, on that moiety of the principal sum secured by each bond surrendered and exchanged as aforesaid, and which is to be paid out of the revenues of the State alone, and being at the rate of five per cent. per annum on such moiety, shall be paid by the State in the manner provided in the first section of the said act; that is to say, on the principal specified in such last mentioned certificate, the State shall and will pay interest at and after the rate of four per cent. per annum from the first day of January, 1847; which interest shall be paid semi-annually, namely, on the first day of July and the first day of January in every year, the first payment of such interest to be made on the first day of July, 1847, up to and inclusive of the first day of January, 1853; and the remaining one per cent. shall be added to, and form part of the special stocks, so called, and be put upon the same footing, and at the time of the said semi-annual payment of the four per cent., and up to the said first day of January, 1853, inclusive, a separate certificate shall be given for the said one per cent., (to make up the five per cent. aforesaid,) which certificate shall, as near as may be, conform to that which, by the second section of this act, is required to be issued for the arrears of interest accruing between first January, 1841, and first January, 1847, and made payable in the same manner, and shall bear the same rate of interest, from and after first January, 1853; or, the aggregate amount of said one per cent. from 1847 to 1853, may, in the first instance, be added to, and included in, the certificate to be issued for the arrears of interest accruing prior to first January, 1847, as and when the said certificates shall be issuable, according to the second section of this act: *Provided*, that if the revenues of the State to be derived from the property tax and poll tax in the first section of the said act mentioned, shall not be sufficient, by reason of the causes in the same section mentioned, to pay in full said interest of four per cent. per annum, then and in that case the State shall only be required to pay, up to the said first day of January, 1853, such rate of interest as the par funds in her treasury, derived from the taxation aforesaid, shall enable her to do, which shall be paid and distributed, pro rata, on the principal specified in such last mentioned certificates of stock issued for the principal, and the deficit, with six per cent. per annum from the time it became due, the State shall make up and pay to the holders of such last mentioned certificates, on or by the first day of January, 1853; and from time to time, at each semi-annual payment, up to 1853, shall give to the holders of said certificates a separate certificate for the amount of said deficit: *Provided*, that no money shall be actually paid over to any holder of any certificate, until bonds to the amount of four millions of dollars, exclusive of interest, shall be surrendered for cancellation, as provided in said original act, as modified by this.

SEC. 4. That the amount of interest to accrue from the first of January, 1847, to the first of January, 1853, inclusive, on that moiety of the principal sum secured by each bond surrendered and exchanged as aforesaid, and which is to be paid by the trustees out of the canal lands and the tolls and revenues of the canal only, and being at the rate of five per cent. per annum on such moiety, shall be paid by the said trustees in the same manner provided in the tenth section of this present act. *Provided*, That if the proceeds of the said canal lands and the tolls and revenues of the said canal shall not (after defraying all needful expenditures and outlays for repairs, attendance, and other necessary things appertaining thereto, as in the thirteenth section of the said act is mentioned) be sufficient to pay in full the said interest which shall accrue from the said first day of January, 1847, to the said first of January, 1853, inclusive, as provided in the said tenth section of this act, the deficiencies (if any) of said canal lands and tolls and revenues to discharge such interest as last aforesaid, shall, on the first day of January, 1853, be also converted into a special stock, bearing interest at the rate of five per cent. per annum, but shall only be payable out of the said canal lands, and tolls and revenues of the said canal, and for which proper certificates of stock shall be issued from time to time as the deficiencies accrue.

SEC. 5. That payment of interest upon certificates, chargeable upon the State, whether original certificates or special stock, shall be made from time to time on such certificates only as shall have been registered with the agent of the State at New York, (as directed by said act,) during the half year prior to such interest becoming due.

SEC. 6. That bondholders who shall not subscribe before the first day of November, 1847, to the completion of said canal, as hereinafter mentioned, and shall not surrender their bonds in exchange for certificates before the first day of December, 1847, and who shall therefore be excluded from the right to become subscribers to the completion of said canal and works, shall nevertheless be entitled to receive a certificate for such amount of interest as shall have accrued, payable out of the State revenues due to such bondholders under the provisions of said act and of this act, from the first day of January, 1847, to the half yearly day of interest happening immediately *before* the day when they shall register their bonds as aforesaid, but *not* to any *money* payment in respect thereof, and the amount of interest represented by such last mentioned certificate, shall be funded together with special stock on the first January, 1853.

SEC. 7. That instead of the previous surrender and cancellation of the amount of bonds specified in the thirty-third section of the said act, the bondholders shall be, and they are hereby required to surrender for cancellation, bonds to the amount of not less than four millions of dollars of principal, exclusive of interest thereon; and that the subscription for the completion of the said canal, instead of that now required by the sixth section of the said act, shall be twenty per cent. on the amount so to be surrendered and

cancelled, unless the aggregate amount of said per centage shall exceed eight hundred dollars, in which case the said per centage shall be proportionably reduced to the bondholders respectively; but so, nevertheless, that such last mentioned sum of eight hundred thousand dollars be fully subscribed; and further, that the time limited by the sixth section of the said act for subscriptions, shall be extended from the first January, 1847, to the first June, 1847, and that the time for such surrender and cancellation, and for the exchange of bonds for certificates, and for the registration thereof in the city of New York, by the agent of State, as directed by the second section of the said act, shall be, and the same is hereby extended from the first day of January, 1847, to the first day of July, 1847. *And provided, also,* That any other bondholder shall have the right, at any time prior to the first day of November next, but not thereafter, to subscribe to the advance aforesaid, upon the amount of bonds held by him, and on payment by him to the trustees, of his *pro rata* share of said subscription, together with interest from the first day of June, 1847, at the rate of six per cent. per annum, and on surrender and exchange of his bonds, according to the provisions aforesaid, he shall thenceforth be placed on the same footing, in all respects, as the previous subscriber.

SEC. 8. That every bondholder who shall surrender any amount of bonds in exchange for certificates, and shall subscribe on such amount, towards the completion of the said canal and works as aforesaid, and shall, on or before the said first day of November, 1847, pay into the hands of the trustees, for the time being, five per cent. on the amount of bonds so surrendered by such holders of certificates, as and by way of *deposit* thereon, and shall afterwards duly answer and pay any calls which may be thereafter made in respect of such subscriptions, under and by virtue of the ninth clause of the said act, shall have, and be entitled to all the benefit of the priorities given, or intended to be given by the said act, (as amended by this act,) to parties subscribing towards the completion of the said canal and works.

And it is hereby expressly declared, that from and after the first of November, 1847, no party whosoever, whether bondholders or not, shall have any right or claim to *subscribe* to the advance aforesaid, nor to pay up his *pro rata*, or any share of the said advance, nor otherwise, to be placed on the same footing as if he had originally subscribed thereto; anything in the fourteenth section, or any other section of said act to the contrary notwithstanding.

Nevertheless, time shall be allowed to all parties subscribing and paying the aforesaid per centage or deposit on their respective subscription in manner, and within the period hereinbefore limited and appointed for that purpose, to deposit their bonds in exchange for certificates, until the first day of December, 1847: *Provided,* That nothing herein contained shall prevent, or be deemed or taken to prevent, any bondholder from availing himself, after the said first day of November, 1847, of the benefits of the said act as modified by this, so far as relates only to the surrender and exchange



of his bonds for certificates, as therein mentioned, but without any right of subscription, or any right to the priorities given by the said act, or by this act, to *subscribers*: *Provided further*, That the State will make no provision whatever hereafter, to pay either principal or interest on any internal improvement bond or bonds, until the holder or holders thereof shall have first surrendered said bonds to the agent of State, and shall have received in lieu thereof, certificates of stock, as provided in the first section of this act; anything in this act to the contrary notwithstanding.

SEC. 9. This act shall be in force from and after its passage, and the said original act is hereby declared to be in full force, except so far as the same is hereby modified; and so soon as an amount of bonds of not less than four millions of dollars, exclusive of interest, shall have been subscribed for, as provided in this act, and notice thereof given to the agent of State in New York, or to the governor of the State of Indiana, then it shall be lawful for such subscribers to elect two trustees, in the manner as provided for in the eleventh section of this act, and said subscribers shall thereupon pay over to the said trustees five per cent. upon the amount of bonds so subscribed by them severally. And it is hereby expressly declared that so soon as the governor of said State shall be satisfied, upon proper evidence to be submitted to him, that bonds to the amount of five millions five hundred and forty-five thousand dollars, exclusive of interest, have been surrendered for exchange and cancellation, and are in the hands of the agent of State for that purpose, and that the said five per cent. has been paid over, he shall convey by deed the Wabash and Erie canal, and the lands and tolls, and all other the premises mentioned in the eighth section of the said act, to the said trustees, as therein provided, and not before: *Provided, nevertheless*, That upon the subscription and payment, as herein before mentioned, being made, and satisfactory evidence thereof given to the governor, he is hereby directed to authorize the said trustees to take charge of said canal and its appurtenances, with full authority to commence and direct all operations thereon, or in any wise connected therewith, as contemplated by this and the former act on this subject: *Provided further*, and it is hereby enacted, that unless holders of bonds to the amount of four millions of dollars, as provided for in the seventh section of this act, shall bona fide subscribe five per cent. on that amount, and pay such last mentioned per centage to the trustees as aforesaid, on or before the said first day of June, 1847; and unless bonds to the amount of four millions of dollars, exclusive of interest, shall be surrendered for cancellation, as provided in said original act, as modified by this, on or before the first day of July next, then and in that case the said former act, and this act, and every clause, proviso, matter and thing therein and herein respectively contained, shall cease, determine and be utterly void.

SEC. 10. That in lieu and stead of the scale of distribution and application, as in the eighth and thirteenth sections of the said act directed, of the tolls and revenues of said canal, and of the produce of the said canal lands, (sold and unsold,) after defraying al-

needful and proper expenditures for repairs, attendance and other necessary things appertaining thereto, which shall be first paid, anything in the said former act or this act to the contrary notwithstanding, the same shall be held and applied by said trustees, in trust and security, for the uses and purposes following, that is to say:

*First.* In payment of the work, labor and materials, or contracts for the supply of work, labor or materials, to be done and furnished in and about the further prosecution and construction of the said canal and works, until the same shall have been fully completed to Evansville, as the moneys to be paid for the same shall from time to time become due and payable; but not by way of anticipation, and of all needful and proper expenditure for repairs, attendance, and other causes, save and except so far as regards *existing* tolls and revenues of the said canal, which are hereinafter declared to be expressly appropriated for and towards payment of interest, at six per cent. per annum, on the sums to be subscribed for the completion of the said canal and works, and which existing tolls and revenues are hereby declared to be excepted from the operation of this clause to that extent:

*Secondly.* In payment of interest after the rate of six per cent. per annum, on the sums to be respectively advanced by the holders of certificates to the said trustees, from time to time, in aid of the completion of the said canal and works, and to be computed from the respective times of advancing and paying such principal sums respectively, such interest to be payable in the city of New York, by equal half yearly payments, on the first day of January, and the first day of July, in each and every year, the first half yearly payment to be made on the first day of January, 1848.

*Thirdly.* In payment in full of the principal sums advanced, or to be advanced by the holders of certificates subscribing as aforesaid for and towards the completion of the said canal and works, and from time to time remaining due.

*Fourthly.* In payment in full to the subscribers making the said advances, or to their assignees, of interest, at and after the rate of five per cent. per annum, on the moiety of the principal of the bonds, which they may have surrendered and exchanged for certificates as aforesaid, such interest being to be computed from the said first day of January, 1847.

*Fifthly.* In payment in full to the subscribers making such advances, or their assigns, of the principal of the special stock to be issued to cover the arrears of interest due and accruing from the first day of January, 1841, to the first day of January, 1847, as fast as the same can be done, with interest on the same, at and after the rate of five per cent. per annum, to be computed from the first day of January, 1853.

*Sixthly.* In payment in full to the subscribers making the said advances, or to their assigns, of the principal moneys secured by each such certificate, so charged over against the canal lands, and the tolls and revenues of the said canal.

*Seventhly.* In payment in full to the other holders of any certifi-

cates of stock, by the said act directed to be issued and charged as aforesaid, (such holder not being a subscriber to the said advance,) or their assigns, of interest, at and after the rate of five per cent. per annum, on the amount of the principal thereof.

*Eighthly.* In payment in full to the holders of certificates of special stock, to be issued and charged as aforesaid, (such holders not being subscribers to the said advance,) or their assigns, of the principal of such special stock, with interest on the same, at and after the rate of five per cent. per annum, to be computed from the said first day of January, 1853.

*Ninthly.* In payment in full to the holders of such last mentioned certificates, (not being subscribers,) or their assigns, of the amount of the principal thereof respectively.

*Tenthly.* To pay into the treasury of the State any surplus or balance which may remain in the hands of the said trustees, after making the several payments in the nine preceding classes mentioned. And it is hereby declared that such sums shall, from time to time, be paid and applied as soon as conveniently may be after the receipt thereof, saving the just rights of the holders of bonds now outstanding, and known as the Wabash and Erie canal bonds, as provided for in the eighth section of this act: *Provided, That,* after the payment in full of said subscribers or their assigns, as aforesaid, the holder or holders of any certificate whose, or whose assignor's bond or bonds were surrendered and cancelled, as in the said original act and this supplement is provided, on or before the 1st day of May, 1850, shall be entitled to the same preference and priority in the payment thereof, and to be paid in the same manner as is provided for the payment of said subscribers to said advance, and their assigns, according to the time of such surrender and cancellation, anything in this or the said original act to the contrary notwithstanding.

*And provided,* That all payments of principal and interest to be made under or by virtue of this act, or the said recited act, amongst the said several classes of subscribers or holders of certificates, (as the case may be,) shall be made pro rata amongst the subscribers and holders of certificates in each such class, in the order and priority of payment given, or intended to be given, to each such class respectively, as aforesaid, first paying in full those first entitled, and so on, toties quoties; and no interest shall at any time be charged upon any semi-annual deficit of interest, which the revenues of the canal shall fail to pay.

*Provided, also,* that the proceeds of sales of the lands in the Vincennes land district, shall be applied only to the construction of the canal from Terre Haute to Evansville, or to the repayment of the cash advances made by the bondholders for that purpose, until the said canal shall have been completed. The trust hereby created shall cease and determine upon the payment of the principal of said certificates, which are hereby authorized to be paid out of the proceeds of said canal at any time after twenty years from the passage of this act, and the State hereby reserves the right to redeem any of such certificates at any time after twenty years after

the passage of this act, and after the repayment of said advance, as herein provided, by paying the legal holder thereof the principal sum due thereon.

SEC. 11. That so soon as conveniently may be after the passing of this present act, two trustees, qualified by citizenship and residence, as in the said seventh section of the said recited act is provided, shall be elected by a *majority in number and value* of the *subscribers* towards the completion of the said canal, who shall have given notice, in writing, of their subscriptions to the agent of the State in the city of New York, or if no such agent at New York, then to the governor of Indiana, as mentioned in the ninth section of this act, such subscribers being present personally or by agent duly authorized by proxy at some meeting to be convened and holden in New York for that purpose, by and on the part of such subscribers, of which not less than one calendar month's previous notice, stating the object, and time, and place of such meeting, shall be thrice inserted in the London Gazette, and "Times" newspaper, and in two of the principal New York daily journals; and the resolutions to be signed by the chairman presiding at such meeting of subscribers, shall be a sufficient warrant and authority for the election of the two persons to be then and there elected as trustees, for and on behalf of the said subscribers, and such election shall therefore be deemed and acknowledged to be a good and valid election of such two trustees, and that such election was duly made under and in compliance with the provisions of the said recited act: *And it is further enacted*, that no such election to be made as last aforesaid, shall be or become void or voidable by reason of any technical informality in the proceedings, or of any verbal defects or clerical errors, or by reason of the omission of notarial legalization, in or to any power or powers of attorney or other instrument or instruments of substitution to be made or executed by any subscriber or subscribers, bona fide to enable his, her, or their representatives to vote on his, her, or their behalf at such election of trustees as aforesaid, and produced at such meeting for that purpose, nor shall such election be or become voidable by reason of any omission to hold the proceedings herein enacted, in public or before any judge, magistrate, or other judicial officer, or to record the same in any court of law or equity, or other tribunal or place of justice, (any law, usage, or custom to the contrary thereof in anywise notwithstanding.)

*Provided, nevertheless*, that each of the said trustees shall, after such their and his election as aforesaid, and before entering on his and their duties, take the oath or affirmation for the faithful and impartial discharge thereof, and give the bond to the State, with security to be approved by the governor, for the proper discharge of his and their duties, as is mentioned and provided in the tenth section of the said recited act: *Provided also*, that a duplicate of said resolutions, to be signed by said chairman, and by him duly acknowledged before the mayor and recorder of the city of New York, or before any judge of any court of record in said city, or any commissioner resident in said city, duly authorized to take the



acknowledgment of deeds to be recorded in the State of Indiana, shall be by said chairman forwarded by mail, addressed to the governor of the State of Indiana, which shall be filed by him in the office of the Secretary of State: *Provided further*, that after said subscribers making said advances shall be paid in full the principal money secured by such certificates, it shall be lawful for a majority in number and value of the other holders of any certificates of stock by this or the said original act authorized to be issued and charged upon said canal as aforesaid, to elect trustees in like manner, and subject to the same conditions as is provided for the election of trustees by the said subscribers; and such trustees shall comply with, and be governed by all laws, rules, and regulations, and possess the same powers, and perform the same duties, as such trustees elected by said subscribers: *And provided further*, that if a majority in number and value of the other holders of said certificates neglect to so elect trustees as aforesaid, for the space of six months after said subscribers shall be paid in full as aforesaid, that then and in that case it shall be lawful for, and it is hereby made the duty of the two houses of the legislature, at its next session, to elect the same, in the same manner as judges of the circuit court are now authorized to be elected; or, in case said six months expire during the recess of the legislature, the governor shall appoint the same, and the persons so appointed shall hold their offices until the close of the next session of the legislature, and until their successors are duly elected and qualified; and such trustees shall comply with and be governed by, all laws, rules, and regulations, and possess the same powers and perform the same duties as if the said trustees were elected by the holders of said certificates: *And provided further*, that the trustees elected by said subscribers shall hold their said offices for six months after said subscribers or their assigns shall be paid in full, as provided for in the tenth section of this act, and until their successors are elected and qualified.

SEC. 12. AND WHEREAS, it is enacted by the said seventh section of the said recited act, that such trustees shall "hold their offices for the term of three years from the time of their said election and appointment, and until others are elected or appointed in their places:" AND WHEREAS, by the twelfth section of the said act, it is declared, (amongst other things,) that, whenever any vacancy shall occur in the board of trustees by death, resignation or other causes, such vacancies shall be filled by the General Assembly, or by the subscribers aforesaid, or their assignees, to whom belonged the election of the trustee whose seat shall become vacant, as the case may be," but no provision is made in the said act for the manner and form in which such vacancy shall be supplied: AND WHEREAS, by the twenty-seventh section of said act, it is (amongst other things) declared, "that should either of the said trustees embezzle or fraudulently convert to his own use, or secrete with intent so to convert to his own use, any of the funds, choses in action, securities or effects which may come to his hands or possession under or by virtue of the trusts created by the said recited act, the trustees so offending shall be deemed to have committed the crime of



grand larceny, and upon conviction thereof, shall suffer the punishment prescribed for that offence," as in the said recited act more particularly mentioned; but no provision is made in the said act for the discharge or removal of such offender: Now, therefore,

*Be it enacted*, that in case of the death, resignation, refusal to act, permanent absence, or bodily or mental infirmity, of any or either of the said trustees, whereby such trustee shall be rendered incapable of fulfilling the duties of the said trust, according to the true intent and meaning of the said act; or in case any or either of the said trustees shall embezzle, or fraudulently convert to his own use, or secrete with that intention, any of the property which may come to his hands or possession by virtue of the trusts aforesaid, whether such events shall happen during the said first three years of the said trust, or at any time afterwards during the continuance of the said trust; then and in every such case the place of the trustee so dying, resigning, refusing to act, becoming permanently absent, or incapacitated, or embezzling, or fraudulently converting to his own use, or secreting with that intention, any of the trust property as aforesaid, shall be deemed and be taken to have become and be absolutely vacated; and immediately thereupon such vacancy shall, as to the trustees to be named by the State, be filled up by the General Assembly, if in session, or if in recess, then by the governor, as directed by the said twelfth section of the said act; and when so appointed, shall hold his office until the meeting of the next General Assembly; and such vacancy or vacancies, as to the two trustees, or either of them, to be elected by the said subscribers, in the manner herein before, and in the said recited act mentioned, shall be filled up in like manner by the subscribers; and such new trustee or trustees, when named by the State as aforesaid, or elected by the said subscribers as aforesaid, as the case may be, shall immediately upon such election or appointment, and after taking the oath or affirmation, and giving the bond with security, as directed in the said tenth section of the said act, stand and be possessed of and invested with the same powers and authorities in all respects as if they or he had been originally elected or appointed trustee or trustees for the purposes of the said act.

*Provided, also*, and it is hereby expressly enacted and declared, that when either or both of the trustees to be elected by the *subscribers* towards the completion of the said canal and its works, as in the eleventh section of this present act mentioned, shall, at any time whatever, misconduct himself or themselves in his or their office, or shall become bankrupt or insolvent, or make or offer any compromise with his or their creditors, then and in every such case it shall be lawful for a majority of such subscribers in number and value present, personally, or by agent duly authorized by proxy, at any meeting to be convened and holden in New York for that purpose, by and on the part of such subscribers, of which one month's previous notice shall have been given, by or on the part of the said subscribers, in manner in the said eleventh section of this act provided, or as near thereto as circumstances will permit;

and full power and authority is hereby given to the said subscribers for that purpose forthwith to remove such trustee or trustees from his or their office of trustees, and at the same meeting to elect one or more trustee or trustees in the place and stead of such trustee or trustees to be so removed as aforesaid, as in the eleventh section of this act mentioned, and the resolutions to be signed by the chairman presiding at such meeting of subscribers, shall be a sufficient warrant and authority for the removal of such first mentioned trustee or trustees, and the election of one or more new trustee or trustees in his or their place or stead, for and on behalf of said subscribers, and such removal or removals, and election or elections respectively, shall be deemed, taken, and acknowledged, to be good at law and in equity, (any thing herein before, or in the said recited act, to the contrary notwithstanding.) And it is hereby further declared, that such new trustee or trustees, when so elected as herein before mentioned, shall immediately upon such election, and after taking the oath or affirmation, and giving bond and security, as directed by the said tenth section of the said recited act, stand and be possessed of and invested with the same powers and authorities, in all cases, as if he or they had been originally elected or appointed trustee or trustees for the purposes of the said act: *Provided, also*, that no person shall hold or be eligible to the office of trustee on the part of the State, who is notoriously bankrupt or insolvent, and in case such State trustee shall at any time whatever become bankrupt or insolvent, or make or offer any compromise with his creditors, or be guilty of any gross misconduct in office, then and in that case the office shall be deemed and taken to be absolutely vacated, and immediately thereupon said vacancy shall be filled by the General Assembly, if in session, or otherwise by the governor, until such time as an election is made by the General Assembly, as provided in the twelfth section as said act.

*Provided, also*, that the said trustees, and each and every of them, shall be, and they are hereby expressly prohibited from taking, or being directly or indirectly interested in, any job, work or contract, let or to be let on said canal, or being in any wise connected during the time of his or their continuance in office.

*And provided further*, that said trustees, and each and every of them, or any other person or persons by or on behalf of the subscribers to, or holders of any stock set over on said canal, shall be, and they are hereby expressly prohibited from buying or selling any canal land scrip, or from receiving the same in payment for any lands, or on any account, at any sum less than the face of such scrip and interest thereon.

*And provided further*, that no trustee named in this act, shall either directly or indirectly be engaged or interested in any transportation or boat company on said canal. And upon violating any of the above provisions, it shall work a forfeiture of his office, and render him for ever incapable of holding the office of trustee.

SEC. 13. That in order to the greater security of the State, and also of the subscribers, and with a view to induce greater confidence in the latter: *Be it enacted*, that all sums of money which shall be

received by the trustees, or any of them, or which shall come to their hands or possession during the continuance, and in virtue of the said trust, shall, (after retaining so much thereof only, as shall be required for the payment of workmen and laborers, and other current and necessary expenses of the said trust,) be forthwith deposited by them in some safe bank or banks in the city of New York aforesaid, to be there placed to an account to be entitled "the account of the board of trustees of the Wabash and Erie canal;" and all drafts and orders for the payment of any sums of money to be drawn by the said trustees on the said bank or banks, shall be signed by a majority of the said trustees.

SEC. 14. AND WHEREAS, by the fourth section of the said recited act, it is enacted "that the stock created pursuant to the said act, is to be transferable only in the city of New York, in books to be provided for that purpose by the State," in manner in the said fourth section more particularly mentioned; and by the fifth section of said act, it is enacted "that the interest on the stock thereby created, shall be payable half yearly, at the city of New York," on the days and times therein mentioned: AND WHEREAS it is ascertained that a very considerable portion of the bonds of the said State are held by foreigners, otherwise unconnected with the United States, domicilled in other countries, and subject to other laws: AND WHEREAS doubts have been suggested on the part of some such last mentioned persons, in respect of the matters hereinafter mentioned or referred to, which doubts may operate prejudicially to the operations contemplated by the said recited act, and it is therefore expedient that the same be removed: Now, to demonstrate the good faith of the State of Indiana, and for the removal of all such doubts as aforesaid, and with a view to create general confidence in the arrangement made in the said recited act by the State for the liquidation of its debt: *Be it enacted*, that the tolls, revenues and profits of the said canal, and its appurtenances, present and future, and the moneys to arise and be collected by and from the sales of the lands and premises contiguous thereto, and in the said act more particularly mentioned and described, and the personal taxes to be levied towards the payment of the said debt, as in the said act also mentioned, and the receipt and application thereof for that purpose, as in the same act is also provided, shall remain and be inviolate and in full force; and the payment of the principal moneys and interest on the certificates and stock intended to be created pursuant to the said act and this act, and all the certificates and evidences of the title thereof respectively, shall be and continue effectual and inviolate by the means aforesaid, until the objects and purposes of the said act and this present act shall be fully accomplished. *Be it further enacted*, that if a foreigner be holder of any such certificates or stock, or otherwise beneficially entitled thereto, the same shall pass to his representatives, on his decease, of whatever nation he may be, in the order of succession established by the laws of the country of which such foreigner was a subject at the time of his decease, and shall not be liable to the payment of any fees or charges on the part of any of the authorities of said State,

by reason of such decease, or by reason of the transfer, descent, or distribution of any such stock or certificates thereby occasioned. And for the reasons and with the view to induce such confidence as aforesaid: *Be it further enacted*, that all stock to be created, and all certificates and other instruments of title to be issued in pursuance of the said act, and all principal moneys and interest thereby respectively secured, shall not be molested or impaired, arrested or attached by the State of Indiana.

SEC. 15. AND WHEREAS, by the eighth section of the said act, it is declared that "if the State at any time thereafter, becomes the holder of any of the said stock, she may, at her election, deem it to be extinguished, or she may regard it as still outstanding, and be entitled to receive and draw upon it, whatever of interest the tolls and revenues of the said canal may pay upon it: AND WHEREAS any re-issue of such stock, or of the certificates to be issued in pursuance of the said recited act or this act, will prejudicially affect the value of the residue thereof, which shall be outstanding in the hands of the public, and also deter holders from becoming subscribers to the said intended advance, on or before the first day of May, 1847, as is provided in the second section of this act: *Be it enacted*, that whenever the State shall become the holder of any of the said bonds, certificates, or special stock, such bonds, certificates, or special stock, shall not be re-issued on any account whatever; and the particulars in writing of all such last mentioned stock, and the numbers, dates and amounts of all such last mentioned bonds, certificates, or special stock, shall from time to time be rendered by some competent officer of the said State to the trustees, for the guidance and information of the latter: *Provided, nevertheless*, that in other respects the same shall stand upon the same footing as if held by individuals; and the said State shall be entitled to receive and draw upon such of the said bonds, or certificates, or special stock, as shall be chargeable on the tolls and revenues of the said canal, whatever the tolls and revenues of the said canal may pay upon it or them from time to time, by way of interest or otherwise, as in the said eighth section of the said act is mentioned.

SEC. 16. AND WHEREAS, by the ninth section of the said act, it is (amongst other things) enacted, that "before the deed of trust therein provided to be given, shall be delivered to the said trustees, the said subscribers to the said advance shall pay over to the said trustees, a certain per centage on the amount of their said subscription, and thereafter, from time to time, as further sums shall be needed for the prosecution of the said canal, they shall, on the requisition of the said trustees, pay over to them such sum or sums as they may call for, not exceeding, however, at any one time, five per cent. on the entire subscription; and if the said subscribers, for the space of ninety days after any such call by the said trustees, shall fail to pay the sum or sums so required, they shall forfeit all the sums previously advanced, and also all the priority and preference which by the said act is given them." AND WHEREAS justice requires that all subscribers to the said advance shall have reasonable notice of such calls in the said act mentioned, especially those who are not resi-



dent within the United States, previously to incurring the forfeitures in the said act also mentioned: AND WHEREAS doubts may arise as to the legal effects of such forfeitures, and it is expedient to remove the same :

*Now, therefore, be it enacted*, that whenever any call or calls shall be made by the said trustees, in pursuance of the said act, the said trustees shall cause notice thereof to be thrice inserted in the London Gazette and "Times" newspaper, and in two of the principal New York daily journals, stating the amounts of such call, and the time and place to be appointed for payment thereof; and it is hereby declared, that the said ninety days, at the expiration of which such forfeiture is to be incurred, in default of payment as in the said act mentioned, shall commence and be computed from the date of the London Gazette in which the third of such advertisements shall be inserted, and not before, any thing in the said act to the contrary notwithstanding. And in order to remove the doubts herein before mentioned, as to the effect of such calls, and any forfeiture to accrue in respect thereof, as aforesaid: *Be it enacted*, that in case of each such call so to be made and advertised as aforesaid, time shall be deemed to be of the essence of the contract, and the defaulting party shall forfeit all sums previously advanced by him, as in the said act mentioned, and also all the priority and preference therein also mentioned; and all contract, claim, right, or demand, (if any,) in respect of the subscription in the said ninth section, of the said act mentioned, shall, as between the said State of Indiana and such defaulting party, and as between the said trustees for the time being, and the said party, thereupon cease, be at an end, and absolutely determined.

SEC. 17. AND WHEREAS, by the sixth section of the said recited act, it is (amongst other things) required that such sums of money shall be subscribed as shall "insure the completion of the said canal to Evansville, and all necessary side cuts, feeders, feeder-dams, reservoirs, and all side-cuts which may be hereafter particularly mentioned, within four years from the taking effect of this act:" AND WHEREAS, by the said ninth section of the said recited act, it is (amongst other things) enacted, that "if by reason of the failure of the said subscribers to make said advances therein before mentioned, the said trustees shall not be able to effect the completion of the said canal within the period therein before mentioned, then and in that case the lands and property thereby granted to the said trustees, shall revert back to, and become the property of the State;" AND WHEREAS it may happen that the said trustees shall not be able to effect the completion of the said canal within the period so limited as aforesaid, without any default of the said subscribers, but by reason of natural or local causes or calamities, beyond the control of the said trustees, or the misfeasance, absence, or incapacity of any officer to be appointed by the State, it is expedient that just and reasonable allowance should be made for the same as hereinafter next mentioned :

*Now, therefore, be it enacted*, that in case the completion of the said canal, or any of the works belonging thereto, or connected



therewith, shall at any time be obstructed, retarded, injured, damaged or destroyed, by storm, tempest, hurricane, inundation, fire, civil or military commotion, foreign invasion, or any other unavoidable accident, or by the misfeasance, illness, incapacity, absence, voluntary or involuntary negligence, or other acts of omission or commission, on the part of any officer to be named and appointed by the State, in pursuance of the said act, then and in every such case all just and due allowance shall be made for the same, and the time during which such works shall be suspended, or which shall be necessarily occupied in the restoration or repair thereof from the causes aforesaid, or any of them, shall be omitted out of the computation of the said period of four years limited by the said act for the completion of the said canal, any thing in the said act to the contrary notwithstanding.

AND WHEREAS, by the act of Congress, of the third of March, 1845, donating to the State the lands in the Vincennes land office district, in the said original act mentioned, it is provided, that unless said canal shall be completed to the Ohio river within fifteen years from the passage of said act, said State should become liable to the United States for the amount for which the same may have been sold: AND WHEREAS it is desirable that said canal should be completed to Evansville aforesaid at an early day, thereby adding largely to the revenues thereof, increasing the value of the taxable property of the State, and affording increased facilities for trade and commerce therein: Therefore,

*Be it enacted*, that if said trustees shall, from any cause whatever, except as herein provided, fail to complete said canal in the manner and within the time herein specified, that then and in that case the said subscribers shall not any longer be entitled to receive any priority or preference which by the said original or this supplemental act is given, or intended to be given to them, but from thenceforth the tolls and revenues of said canal shall be divided pro rata among all owners or legal holders of certificates issued by virtue of this act, as though no priority or preference had ever been given.

*And be it further enacted*, that in case the said trustees shall not have fully completed the said canal to Evansville within the period of ten years from the passage of this act, with the exceptions as to casualties, &c., mentioned in this section, then and in that case the lands and property hereby, and in the said recited act, provided to be granted, shall revert back to, and become the property of the State, free from all liens from any such certificates: *Provided*, that all deeds of conveyance and contracts for the sale of any of said lands, made in good faith prior to such reversion, shall be valid and effectual as though no such reversion had occurred.

SEC. 18. AND WHEREAS, by the tenth section of the said recited act, it is (among other things) enacted, that the said trustees "shall keep a record of all their doings and proceedings, which shall at all times be open to the inspection of the public authorities of the said State;" AND WHEREAS, it is enacted by the same section, "that the said trustees shall keep a full, just and true account of all moneys by them received for or by reason of their said trust, and of their

disbursements of the same, and shall annually report to the legislature the general condition of the said canal and canal lands, and exhibit a full account of their receipts and disbursements," as in the said recited act is more particularly mentioned: AND WHEREAS, it is desirable that a more particular supervision should be kept by the state over the receipts and disbursements of the said trustees, especially on account of tolls and payments of principal or interest on canal lands than is contemplated in the said tenth section of said recited act, by a general statement annually to the legislature: Therefore,

*Be it enacted, First.* That each toll collector, in addition to any reports he may make to the trustees, shall report to the auditor of State, an abstract of his books once in three months, or oftener, if said auditor may require, as is provided in section three hundred and two, chapter thirteen, of Revised Code of 1843 :

*Second.* That said trustees shall report to said auditor semi-annually, viz : up to the first days of April and October, annually, a minute and detailed statement of their receipts and expenditures, arranged under appropriate heads, accompanied in all cases, when practicable, by the proper vouchers; and said auditor shall carefully examine said accounts and make settlement thereof, and enter the same in the proper books of his office, as is provided in section twenty-four, chapter thirteen, of Revised Code of 1843 :

*Third.* Said trustees shall accompany said reports with an abstract of all sales of canal lands; also an abstract of all payments of interest and penalties; also an abstract of partial payments of principal on lands previously sold; also an abstract of all final payments on canal lands, noting the names of the several assignees, (if any,) the date of such final payment, and date of patent issued thereon, and to whom patented; all of which, if found correct, the auditor shall record in the proper books of his office, in the same manner that sales and payments for canal lands have heretofore been kept in his office; and for the additional clerk hire hereby rendered necessary, the trustees shall cause to be paid, on the proper voucher of the clerk performing the labour, an amount not exceeding four hundred dollars per annum, payable as similar services are paid when rendered for said trustees; and the auditor of State shall annually report the condition of said canal fund and canal land to the legislature; and it shall be the duty of the committee of ways and means to examine and report specially in relation to said fund.

AND WHEREAS it is just and right that the said subscribers should also be kept advised of the doings and proceedings of the said trustees, and of the general condition of the said canal and canal lands, and of the sales of such lands, and the general receipts and disbursements of the said trustees:

*Be it enacted,* that the records so to be kept by them, the said trustees, as in the said tenth section of the said act mentioned, shall be open to inspection also, at all convenient times, of the subscribers and bondholders, and their agents duly authorized; and that in addition to the annual report by the said tenth section of the

said act directed to be made by the said trustees to the legislature, the said trustees shall, at the end of each and every half year during the continuance of the said trust, prepare and transmit to the subscribers for the time being, by circular letter, or otherwise, (so far as their respective names and places of abode can be ascertained from the transfer books to be provided by the state, and kept in the city of New York, as aforesaid,) a full, just and true account of all moneys received by them, for or by reason of their said trust, and of their disbursements of the same moneys, together with the balances on hand and places where deposited, and of all sales of canal lands, and tolls and revenues received, and of all other their receipts and disbursements during the half year then last past, with all such further and other particulars relative to the said trust and the operations thereof, and to the said canal and canal lands, as shall enable the subscribers and bondholders for the time being to understand the State and prospects of the said undertaking.

SEC. 19. AND WHEREAS, in further pursuance of the power reserved by the said twentieth section of the said recited act, and in order to enable the said trustees to carry into more full effect the fair and obvious meaning of the said act, and the additions and modifications thereto introduced by this present act:

*Be it enacted*, That the several additional amendments contained in this act, and hereinafter next mentioned, shall be accepted and adopted as part of the said recited act, and shall have the like full force and effect, in all respects, as if the same had been originally enacted by the said recited act, and had formed part thereof; that is to say:

*Amendment A.*—That in the ninth section of the said recited act, between the word “execution” and the words “of the deed,” there be introduced the words “and delivery,” so that the said section, as amended, shall stand, “execution and delivery;” and that the penalty required in the bond of the trustees, by the tenth section of the act to which this is supplementary, be, and the same is hereby increased to the sum of one hundred thousand dollars.

*Amendment B.*—That in the twelfth section of the said recited act, after the words “and shall assume the payment of,” and before the word “interest,” there shall be introduced the words “principal and,” so that the said section, as amended, may stand thus: “and shall assume the payment of principal and interest.”

*Amendment C.*—That at the end of the fifteenth section of the said recited act, and after the words “altered or amended by the said board,” there be introduced the words “provided, that such rules or regulations, or any of them, be not at variance with, or repugnant to the manner and form of election reserved to subscribers by the eleventh section of an act, entitled, ‘an act supplementary to an act to provide for the funded debt of Indian, and for the completion of the Wabash and Erie canal to Evansville,’” meaning and thereby intending this present act.

*Amendment D.*—That at the end of the eighteenth section of the said act, and after the words “the tariff of tolls on similar works,” there be introduced the words “provided, that no such tolls be at

any time reduced in amount by the State below the average tolls, from time to time paid or payable by the public on any other similar works in the States of Ohio, Illinois and Pennsylvania."

*Amendment E.*—That in the twenty-second section of the said recited act, after the words "and shall be subject to be removed by the governor during the vacation of the legislature, or by the general assembly when in session," and before the words "the said engineer, before entering on his duties," there be introduced the words "or in case of the absence of the governor, or in case of urgent necessity, and to prevent immediate damage to the said canal or works, then by the trustees for the time being, or by a majority of them."

*Amendment F.*—That at the end of the twenty-fourth section of the said recited act, and after the words "and applied accordingly," there be introduced the words "and the trustees for the time being may prosecute and sue accordingly; and no plea or other technical objection, in bar or abatement, shall be taken or judicially allowed, so as to defeat such prosecution or action, or other proceeding, on the ground of any misnomer, misdescription of the premises or parties, or want of interest in the prosecutor or plaintiff, as the case may be."

*Amendment G.*—That at the end of the twenty-seventh section of the said recited act, and after the words "of the Revised Statutes of 1843," there shall be introduced the following words: "And such offender shall immediately, on reasonable evidence taken on oath, of such offence having been committed, and after due notice of the time and place of taking such proof, and a fair opportunity to rebut the same, and a judgment of guilty by the officer or court before whom such examination shall be had, and without waiting for any other legal or more formal conviction, be, and be deemed and taken to be, absolutely dismissed and displaced from whatever situation he may then hold, and his situation declared vacant, without any particular form or ceremony whatever, and another and competent person shall be elected in his place and stead, in the same manner in which such offender was originally elected, or as near thereto as circumstances will permit, and by the party or parties by whom he was so originally elected, whether by the governor, the general assembly, the trustees, or the subscribers."

*Amendment H.*—That in the thirty-second section of said act, after the words "in the same manner as if this section were not adopted," and before the words "and provided further," there be introduced the words, "notifying in writing to the trustees for the subscribers, for their guidance and information, the numbers, dates and amounts of the certificates so redeemed, in the same manner as in the fifteenth section of the said amended act (meaning this present act) is provided."

*Amendment J.*—That the thirty-fifth section of said act be, and is hereby amended in so far, that the State shall fix the salary of the trustee to be named by the State, and the subscribers, or the majority in number and value, (whose consent shall be ascertained

in the manner mentioned in the eleventh section of this act,) shall fix the salaries of the two trustees representing the subscribers, subject to the approval of the legislature of this State: *Provided, however,* The said legislature shall never reduce such salary for the resident trustees, on the part of the subscribers, below twelve hundred dollars, or of the non-resident trustees, below fifteen hundred dollars.

*Amendment K.*—That instead of section four in the said act, the following section be adopted in lieu thereof:

SEC. 4. The stock created pursuant to this act shall be transferable only in the city of New York, on books to be provided for that purpose by the State, by the holder or holders thereof, or his, her or their assignee, or duly constituted attorney, in pursuance of such rules as may be adopted by the agent of State, or may be prescribed by law; but no transfer shall at any time be permitted, except on the surrender and cancelment of the outstanding certificate: *Provided, however,* That possession of a certificate of stock, with an endorsement thereof on the back, to the possessor, purporting to be by the holder under his hand, attested by two witnesses, shall be deemed a sufficient power of attorney, in all cases, to authorize and warrant the agent of State to transfer on the books, in the name of such holder, such stock to such possessor; and the agent of State shall at all times be deemed the agent of the parties for making the transfers, under such circumstances, and no rule of transfers shall be adopted by the agent of State, or prescribed by law, incompatible herewith: *Provided further, however,* That the State shall in no case be held responsible for the genuineness of such endorsement or attestation; but the fact that an endorsement is made on such certificate, attested as aforesaid, accompanied with actual possession of such certificate, shall be sufficient evidence of right, and shall be a sufficient warrant to said agent of State, for and in the name of the holder of such stock, to transfer the same to the possessor of such certificate, on the surrender and cancellation of the same.

*Amendment L.*—That the twenty-fifth section of said act be amended, by adding, after the words "final payment," the words "of any instalment of purchase money," so as to extend the time of payment of such instalment for the term of five years.

*Amendment M.*—That in the thirtieth section of the said act, after the word "State," and before the words "for the transaction," there shall be introduced the words "and also an office;" and said thirtieth section is hereby further amended, so that said trustees shall establish two or more land offices at convenient points in this State.

*Amendment N.*—At the end of the thirty-fourth section of the said act, add the following: "And the said trustees shall further be required to construct and keep in repair such lock or locks, at the dam erected across the west fork of White river, as may be necessary to the unobstructed and safe navigation of said river; and keep in like good repair the steam-boat lock at feeder dam number four, on the Wabash river; and should the trustees of said canal require



an increased supply of water, said trustees, should they deem it necessary, may construct a navigable feeder from St. Mary's river: *Provided*, they first pay all damages accruing from the construction of said feeder."

*Amendment O.*—In the eighth section of the original act, after the word "extensions," and before the word "finished," add the words "by whatever other name the same may be now designated."

*Amendment P.*—"Any actual settler and occupant of any of the lands hereby, or by the said original act, authorized to be conveyed, shall have the right and privilege, by paying for the same in hand, to purchase such tract of land at one dollar and twenty-five cents per acre."

SEC. 20. That in order to facilitate the surrender and exchange of bonds for certificates, as regards bondholders resident in Great Britain or on the continent of Europe, and to avoid the risk of transmission across the ocean, it is hereby enacted, that the agent of State shall have power, and he is hereby authorized to appoint some suitable person or persons in London, to receive from subscribers and other bondholders, such bonds as they may respectively desire to exchange for certificates, under the provisions of the said recited act and of this act; and such person or persons, when so appointed, shall be authorized to receive all such bonds as may be tendered to him or them in London, for surrender or exchange as aforesaid, and shall forthwith deposit the same in the Bank of England for interim custody, and shall thereupon transmit, for account of the holders of the said bonds, on such deposit being made as aforesaid, a certificate in writing to that effect to the agent of State aforesaid, who shall immediately, on the receipt thereof, transmit to such person or persons so by him appointed as aforesaid in London, for the use of such party or parties by whom such bonds shall have been deposited, certificates, according to the form and effect prescribed by the said act and this act, in exchange for such bonds so surrendered and deposited as aforesaid; and such last mentioned bonds shall thereupon be cancelled in the presence of a notary public, and shall be forwarded, when so cancelled, to the agent of State; and such bonds shall thereupon be utterly void and of no effect: *Provided, nevertheless*, that all parties availing themselves of the privilege of making such deposit in London, as herein before mentioned, and who shall desire to become subscribers on the terms herein mentioned, shall, at the time of making such deposit aforesaid, pay into the hands of such person or persons so appointed by the said agent of State aforesaid, in London, five per centum on the amount of such bonds so by them surrendered respectively, in part of their subscriptions towards the completion of the said canal; which moneys, when so paid, shall be forthwith remitted, at the expense and risk of such subscribers, by the said person or persons in London, to the said trustees in New York, or their bankers, and be there placed to the credit of the said trust account: *And provided further*, that the expense of such agency shall not exceed the sum of five hundred dollars, to be paid by the said trustees out of the said canal fund.

SEC. 21. AND WHEREAS, by the sixth and ninth sections of the said recited act it is enacted, that if by reason of the failure of the said subscribers to make the advances therein mentioned, the said trustees shall not be able to effect the completion of the said canal within the period thereinbefore mentioned, namely, the period of four years from the taking effect of the said act, and doubts may arise as to the construction of the said sixth and ninth sections of the said act, by reason of the modifications and alterations as to the said intended advances contained in this act: AND WHEREAS it it may happen, from unforeseen events, that notwithstanding the bona fide payment and expenditure of the said sum of eight hundred thousand dollars, according to the provisions of this present act, the said canal and its works and extensions may not be completed within the said term of four years, and justice requires that the said subscribers shall have reasonable opportunity to complete the same:

*Be it enacted*, that if at the expiration of four years, to be computed from the date at which the said deed of trust shall be executed and delivered by the said governor to the said trustees, as in this act mentioned, the said sum of eight hundred thousand dollars so to be subscribed as herein mentioned, shall have been expended by the said trustees in and towards the completion of the said canal and its works and extensions, but the said canal shall not, from any cause whatever, have been completed, then and in such case it shall be lawful for a majority of the subscribers for the time being in number and value, personally present, or by agent duly authorized by proxy, at any meeting to be convened and holden in New York for that purpose, within the last three months of the last year of the said term of four years, to be computed as aforesaid, by and on the part of such subscribers, of which one month's previous notice shall have been given by or on the part of the said subscribers in manner in the eleventh section of this act provided, or as near thereto as circumstances will permit; and full power and authority is hereby given to the said subscribers, for that purpose, to raise and levy a further sum, not exceeding five hundred thousand dollars, (over and above the said sum of eight hundred thousand dollars to be originally subscribed as herein mentioned,) to be payable at such times, and by such instalments, as shall be agreed on at such last mentioned meeting; and the resolutions to be signed by the chairman presiding at such meeting of subscribers, shall be binding and conclusive on all the subscribers for the time being, whether present or not.

*And it is hereby further enacted*, that a copy of such resolutions, signed by the chairman, being transmitted to the said governor of Indiana for the time being, and on a subscription to the amount of five per centum on the said sum of five hundred thousand dollars, or so much as shall be agreed on at such meeting to be subscribed as aforesaid, being paid to the said trustees, the said term of four years, in the said recited act mentioned for the completion of the said canal, shall be, and the same is hereby declared to be, extended to and for the farther period of two years, to be computed

from the expiration of said term of four years herein before mentioned, making in all the term of full six years from the taking effect of the said act: and the trustees for the time being, acting in the execution of the said trust, are required, and it is hereby made imperative on them to issue such and so many new certificates or debentures as shall cover the said sum of five hundred thousand dollars, or so much thereof as it shall be agreed at said meeting to be held as aforesaid to raise, for the purpose of completing the said canal and its works and extensions, such new certificates or debentures to be made payable to bearer, and to be signed and verified by the agent of the State of Indiana, in the manner mentioned in the second section of the said recited act, or as near thereto as circumstances will permit, and at any rate of interest not exceeding six per centum per annum on the principal sums to be raised as aforesaid; and it is hereby declared, that such last mentioned sums, and the certificates or debentures representing the same, shall be chargeable only on such of the canal lands as are included in the grant made by the general government, by the act entitled "An act to grant certain lands to the State of Indiana, the better to enable said State to extend and complete the Wabash and Erie canal from Terre Haute to the Ohio river," approved March, 1845, and in the said recited act more particularly mentioned, or on such parts of the said lands as shall then be unsold and undisposed of, and on the proceeds thereof, when sold, from time to time respectively: and the trustees are hereby expressly authorized and required to pay to the holders or proprietors of such new certificates or debentures, such amount of interest thereon, at such rates, (not exceeding the rates aforesaid,) and at such times as the same shall purport to bear and be payable, as also the principal moneys secured thereby, at such time or times as the same shall, by the said new certificates, be made payable, but not by way of priority or precedence over the payment of any interest or principal moneys, with the payment of which the said lands, or any part of them, or the proceeds thereof, when sold, shall have been respectively charged to and in favor of any other persons whosoever, upon or in respect of any other certificates, issued or to be issued, or stock created or to be created by the said recited act and this act, or either of them respectively.

SEC. 22. The debt which it is the object of the trust created by the said recited act, (as amended by this act,) to liquidate, as in the said act is mentioned, having been contracted under the authority of the State of Indiana, and for the service of the people of that State, and it being desirable, as well for the credit of the State, as also in order to establish confidence in the public in general, and the subscribers in particular, to secure the utmost punctuality in the fulfilment of the objects of the said trust, it is hereby declared, that the tolls and revenues of the said canal, present and future, and the lands and lots so conveyed, or intended to be conveyed, as herein before mentioned, and the proceeds thereof, when sold, shall be, and the same are hereby specially pledged, to form

a distinct and particular fund for the redemption of the stock and certificates to be issued in pursuance of the said recited act and of this act; and the said State shall not direct or permit any appropriation to be made of such tolls and revenues, lands and proceeds, or any of them, for the general purposes of the State, or otherwise howsoever, other than and except for the purposes of the said trust, as directed by the said act, (as amended by this act,) until the said stock and certificates, and all interest thereon, shall have been fully paid and satisfied out of the tolls and revenues of the said canal, or the State shall have redeemed said stock and certificates by the payment of the principal thereof; the right of doing which, after twenty years from the nineteenth day of January, 1846, is hereby reserved by the State, as provided in the act to which this is an amendment.

SEC. 23. The lands selected for the completion of the Wabash and Erie canal west of Tippecanoe, and also the lands selected for the completion of the canal east of Tippecanoe, which were classified before the same were offered for sale, shall be reappraised in manner following: The trustees elected or appointed by this act, shall select and appoint one discreet citizen of this State, and the governor shall also select and appoint one of like qualifications, and the two thus selected and appointed, shall choose one other person of like qualifications, who shall constitute a board of appraisers, who, or a majority of whom shall be authorized to reappraise said lands, which appraisers shall be so selected or appointed on or before the first day of August next; and before such appraisers shall enter upon the discharge of their duties, they shall each take and subscribe an oath or affirmation faithfully and impartially to discharge their duties as such appraisers; and it shall be the duty of the auditor of public accounts to make out and have ready for delivery to said appraisers, a list of said lands, by the said first day of August.

SEC. 24. It shall be the duty of said appraisers to examine all the said lands which shall be unsold, as well as the said lands which have been sold, and which may remain unpaid for, and appraise the same at their true cash value, without regard to any improvements, and report thereof in writing to the auditor of public accounts, and also to the said trustees, on or before the first day of December next. Said unsold lands shall be subject to entry and sale at a price not exceeding such reappraised value, in the same manner, and subject to the same conditions, as now provided by law, as modified by this act and the act to which this is supplemental; and it shall be lawful for the legal holders of any certificate or certificates for any of said lands which may have been sold at the time of such reappraisement and not wholly paid for, to pay to the proper officer and officers, by instalments, as now required by law, the difference between what has been paid therefor and such reappraised value; and upon the payment thereof, such holder shall be entitled to demand and receive a deed, as though the full amount specified in said certificate had been fully paid.

SEC. 25. Should any vacancy occur in said board of appraisers by reason of death, resignation or otherwise, it shall be the duty of the person or persons in whom is vested, by said section twenty-three, the appointment of the said appraisers, immediately upon notice thereof, to fill the same, and in the same manner as is in this act provided for the appointment of the original board; and said appraisers, so appointed, shall qualify, and act in like manner with, and possess the same powers with, the original appraisers.

SEC. 26. Such appraisers shall be entitled to receive as a compensation for their services, the sum of three dollars per day for each and every day they may be employed as such, to be paid by such trustees, out of the proceeds of said canal, its lands or revenues.

SEC. 27. It shall be lawful for said trustees to permit the legal holder or owner of any certificate or certificates, or of contracts for the sale of any of said lands heretofore issued, to surrender the same, and divide the tract or tracts of land specified in such certificate, and receive a deed for such part thereof as may be agreed upon between said trustees and such holder or owner of such certificate: *Provided*, That such holder or owner shall first prove, by the oath or affirmation of two reputable citizens of his neighborhood, that he is unable to pay the amount unpaid for such tract or tracts, and that the interest of said trustees and State of Indiana will be prejudiced by such surrender and division.

SEC. 28. This act shall be a public act, and shall be liberally construed in all courts of justice, and the State shall and will supply, by future legislation, all such defects (if any) found to exist, as shall enable the trustees aforesaid to carry into full effect the fair and obvious intent of this act; and the governor is hereby required to give all necessary information to the parties interested, and to do any act or thing which may be necessary to carry this act into effect, or to facilitate any proceedings contemplated by this act.

SEC. 29. *And be it further enacted*, That the said trustees shall, and it is hereby made their duty, to construct and complete all the feeders, feeder dams, side-cuts and reservoirs contemplated in this act to which this is a supplement, contemporaneously with the construction and completion of the main canal: *Provided, however*, That where said canal has already been so constructed beyond any point where such feeders or side-cuts are located and intended to be constructed, as specified in the act to which this is a supplement, it shall be the duty of said trustees to construct and complete all such feeders and side-cuts within eighteen months from and after the acceptance of this act, by our bondholders: *And be it further provided*, That said side-cuts shall be constructed of the same capacity with the main canal.

SEC. 30. *And be it further enacted*, That the said trustees shall erect, construct, and keep in good repair, suitable bridges over all



State or county roads crossing, or that may hereafter cross said Wabash and Erie canal.

ROBERT N. CARNAN,  
*Speaker of the House of Representatives.*

PARIS C. DUNNING,  
*President of the Senate.*

Approved, January 27, 1847.

JAMES WHITCOMB.